

# Mao Declaration

## Exhibit 92

Redacted Version of  
Document Sought to Be Sealed

# Borsay Transcript

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

PATRICK CALHOUN, et al., )  
CHASOM BROWN, et al., on )  
behalf of themselves and )  
all others similarly )  
situated, )  
Plaintiffs, )  
vs. ) Case Nos.  
GOOGLE LLC, ) 4:20-cv-5146- and  
Defendants. ) 5:20-cv-05146-  
YGR-SVK

\*\*\* CONFIDENTIAL ATTORNEYS' EYES ONLY \*\*\*

REMOTE VIDEO DEPOSITION OF  
SABINE BORSAY - VOLUME II

DATE TAKEN: JUNE 30, 2022  
REPORTED BY: RENEE HARRIS, CSR 14168, CCR, RPR  
JOB NO. 5268903  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

PATRICK CALHOUN, et al., )  
CHASOM BROWN, et al., on )  
behalf of themselves and )  
all others similarly )  
situated, )

Plaintiffs,

VS .

GOOGLE LLC,

Defendants.

\*\*\* CONFIDENTIAL ATTORNEYS' EYES ONLY \*\*\*

Remote Video Deposition of SABINE BORSAY,  
Volume II, taken in Zurich, Switzerland and Zoom  
Conference Video, commencing at 1:02 p.m., CEST,  
Thursday, June 30, 2022, before Renee Harris,  
CSR No. 14168, Registered Professional Reporter.

1 APPEARANCES OF COUNSEL:

2 For CALHOUN PLAINTIFFS:

3 BLEICHMAR FONTI & AULD LLP

4 BY: ANGELICA M. ORNELAS, ESQ.

5 555 12th Street, Suite 1600

6 Oakland, California 94607

7 (415) 445-4003

8 aornelas@bfalaw.com

9  
10 For BROWN PLAINTIFFS:

11 BOIES SCHILLER & FLEXNER LLP

12 BY: JAMES LEE, ESQ.

13 AUGUSTO CIVIDINI, ESQ.

14 100 SE Second Street, Suite 2800

15 Miami, Florida 33131

16 (305) 357 8434

17 jlee@bsfllp.com

18 acividini@bsfllp.com

19 -and-

20 BY: MARK MAO, ESQ.

21 44 Montgomery Street, 41st Floor,

22 San Francisco, California 94104

23 (415) 293-6800

24 mmao@bsfllp.com

25 (Attending remotely)

1 APPEARANCES OF COUNSEL: (CONTINUED)

2 For DEFENDANT:

3 QUINN EMANUEL URQUHART & SULLIVAN LLP

4 BY: JOMAIRE CRAWFORD, ESQ.

5 CARL SPILLY, ESQ.

6 51 Madison Avenue, 22nd Floor

7 New York, New York 10010

8 (212) 849-7000

9 jomairecrawford@quinnemanuel.com

10 carlspilly@quinnemanuel.com

11  
12 QUINN EMANUEL URQUHART & SULLIVAN (Schweiz)

13 GmbH

14 BY: REMO DECURTINS, ASSOC.

15 Dufourstrasse 29

16 8008 Zürich

17 Switzerland

18 (+41) 44 253 8014

19 remodecurtins@quinnemanuel.swiss

20  
21 ALSO PRESENT:

22 David West, Videographer (remotely)

23 Matthew Gubiotti, Google

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Exhibit 16 - Bates GOOG-CABR-05270219

Exhibit 17 - Bates GOOG-CALH-00044423

1 THE VIDEOGRAPHER: Good afternoon. We  
2 are on the record. The time is 1:02 p.m.,  
3 and that is Central European Summer Time.

4 Please note that this deposition is being  
5 conducted virtually. Quality of recording 01:03:02  
6 depends on the quality of camera and Internet  
7 connection of participants. What is seen  
8 from the witness and heard on screen is what  
9 will be recorded. Audio and video recording  
10 will continue to take place unless all 01:03:16  
11 parties agree to go off the record.

12 This is Media Unit 1 of the  
13 video-recorded deposition of Sabine Borsay,  
14 Volume II, taken by counsel for plaintiffs in  
15 the matter of Patrick Calhoun, et al., v. 01:03:29  
16 Google LLC and Chasom Brown, et al., v.  
17 Google LLC, filed in the United States  
18 District Court for the Northern District of  
19 California. The case number or numbers is  
20 4:20-cv-5146-YGR-SVK; 5:20-cv-05146-YGR-SVK.

21 The deposition is being conducted  
22 remotely using virtual technology. My name  
23 is David West. I am the videographer. The  
24 court reporter is Renée Harris. We represent  
25 Veritext Legal Solutions. 01:04:10



## CONFIDENTIAL ATTORNEYS' EYES ONLY

1 I am not related to any party in this  
2 action nor am I financially interested in the  
3 outcome.

4 If there are any objections to  
5 proceeding, please state them at the time of 01:04:20  
6 your appearance.

7 Counsel and all present will now state  
8 their appearances and affiliations for the  
9 record, beginning with the noticing attorney.

10 MR. LEE: Good afternoon. James Lee; 01:04:29  
11 Boies Schiller Flexner. I have with me my  
12 colleague, Augusto Cividini, also from Boies  
13 Schiller Flexner.

14 MS. ORNELAS: Angelica Ornelas from  
15 Bleichmar Fonti & Auld for the Calhoun 01:04:45  
16 Plaintiffs.

17 MS. CRAWFORD: And Jomaire Crawford from  
18 Quinn Emanuel Urquhart & Sullivan for the  
19 defendant, Google LLC, joined by my colleague  
20 Carl Spilly, along with in-house counsel at 01:04:54  
21 Google, Matthew Gubiotti.

22 THE VIDEOGRAPHER: Thank you. The  
23 witness may now be sworn in.

24 MR. DECURTINS: Hello, everyone, from  
25 Switzerland, my name is Remo Decurtins, and I 01:05:09

## CONFIDENTIAL ATTORNEYS' EYES ONLY

1 am the so-called Swiss commissioner appointed  
2 by the Competent Swiss Authorities for  
3 supervising today's deposition of Ms. Sabine  
4 Borsay in the matter Chasom Brown, et al., v.  
5 Google LLC. 01:05:25

6 Basis for today's deposition is the  
7 authorization by the Swiss Federal Department  
8 of Justice of June 24 of this year and which  
9 is still valid today.

10 In exercising my function as Swiss 01:05:38  
11 commissioner, I have verified the identity of  
12 Mrs. Borsay ahead of this deposition, and I  
13 hereby confirm that the person sitting here  
14 with me today indeed is Mrs. Borsay, who is a  
15 resident of Munich, Germany. 01:05:53

16 Furthermore, I am hereby advising  
17 Ms. Borsay of her rights in accordance with  
18 the authorization by the Swiss Federal  
19 Department of Justice and the Hague  
20 Convention on Taking of Evidence.

21 Ms. Borsay, do you understand that you  
22 have the right to be represented by a lawyer  
23 in this deposition?

24 THE WITNESS: Yes.

25 MR. DECURTINS: Mrs. Borsay, you

01:06:16

1 understand that you are under no legal  
2 obligation to appear in this deposition and  
3 this deposition may end at any point if you  
4 wish so?

5 THE WITNESS: Yes. 01:06:25

6 MR. DECURTINS: Mrs. Borsay, you  
7 understand that you may invoke the right to  
8 refuse testimony or the prohibition of  
9 testimony under both Swiss and U.S. law?

10 THE WITNESS: Yes. 01:06:34

11 MR. DECURTINS: Mrs. Borsay, you  
12 understand that by being deposed in Zurich,  
13 you as German citizen and resident forgo  
14 rights under German law related to this  
15 deposition but you have rights under Swiss 01:06:44  
16 law?

17 THE WITNESS: Yes.

18 MR. DECURTINS: Mrs. Borsay, this  
19 deposition will be conducted in English. Are  
20 you comfortable with this? 01:06:51

21 THE WITNESS: Yes.

22 MR. DECURTINS: Mrs. Borsay, do you swear  
23 or affirm that the testimony you are about to  
24 provide is the truth, the whole truth and  
25 nothing but the truth? 01:07:01

1 THE WITNESS: Yes.

2 MR. DECURTINS: Mrs. Borsay, do you  
3 understand that this deposition is  
4 transcribed and videotaped?

5 THE WITNESS: Yes. 01:07:10

6 MR. DECURTINS: Mrs. Borsay, do you  
7 understand that you will have the chance to  
8 correct any errors in the transcript and that  
9 you will then be asked to sign such  
10 transcript? 01:07:21

11 THE WITNESS: Yes.

12 MR. DECURTINS: Mrs. Borsay, do you  
13 understand that such signed transcribed and  
14 videotaped testimony will then be transmitted  
15 to the parties' U.S. counsel for submission 01:07:30  
16 and use before the United States District  
17 Court for the Northern District of  
18 California, USA?

19 THE WITNESS: Yes.

20 MR. DECURTINS: Thank you very much. 01:07:40  
21 This is all from me.

22 EXAMINATION

23 BY MR. LEE:

24 Q. All right. Good afternoon, Mrs. Borsay.

25 How are you? 01:07:52

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CONFIDENTIAL ATTORNEYS' EYES ONLY

1 A. Hi. I am okay.

2 Q. Good. Can you please state your full  
3 name for the record, please.

4 A. Yes. Sabine Borsay.

5 Q. Mrs. Borsay, are you currently employed 01:08:00  
6 at Google?

7 A. Yes.

8 Q. You've worked at Google since about 2010?

9 A. Correct.

10 Q. And you've been a product manager for 01:08:06  
11 Chrome Privacy at Google since 2014?

12 A. No.

13 Q. Which part is wrong?

14 A. It's that after my first maternity leave,  
15 when I came back, I think it was in 2018, I was 01:08:23  
16 not working on -- I was not the PM for Chrome  
17 Privacy. I was the PM for Chrome Sync and Sign  
18 In.

19 Q. I see. So beginning in 2014, you were  
20 the product manager for Chrome Privacy, and in 01:08:37  
21 2018 you changed functions; is that fair?

22 A. Yes, after my leave. I believe it was  
23 2018 when I came back.

24 Q. Okay. Are you familiar with Incognito  
25 Mode for Google's Chrome browser? 01:08:54

1 A. Yes.

2 Q. In your role as product manager for  
3 Chrome Privacy, did you have any responsibilities  
4 involving Incognito Mode?

5 A. Yes. 01:09:02

6 Q. What were those responsibilities?

7 A. So it was one of the different features  
8 that I was the product manager for.

9 Q. And as the product manager for Incognito  
10 Mode feature, what were your responsibilities? 01:09:20

11 A. There are no responsibilities. As a  
12 product manager for a specific feature, you are  
13 typically working with your team to see if you  
14 want to make changes to the feature or if there  
15 are anything coming up with the feature, you may 01:09:44  
16 be a good person to talk to for other teams if  
17 they have questions about the feature.

18 These are typical things product managers  
19 do with their features.

20 Q. And as the product manager, are you in 01:09:56  
21 charge of any changes that might be -- that might  
22 have been made to the Incognito Mode feature?

23 A. Sorry, I don't understand that one word  
24 in English that you used. Can you --

25 Q. Which word? I said -- let me rephrase. 01:10:08

1 A. Yeah.

2 Q. As the product manager, are you the  
3 person in charge of any changes that might be made  
4 regarding the Incognito Mode feature?

5 MS. CRAWFORD: Objection to the form of 01:10:24  
6 the question.

7 You can answer.

8 THE WITNESS: It depends. There's no  
9 universal answer I can give to that. It's  
10 not that, you know, the product manager is in 01:10:31  
11 charge.

12 BY MR. LEE:

13 Q. Okay. When did you start working as a  
14 product -- strike that.

15 As a product manager for Chrome Privacy, 01:10:43  
16 when did your responsibilities over the Incognito  
17 Mode feature begin?

18 A. So I started to work as a product manager  
19 on privacy in 2014, I believe, when I joined the  
20 Chrome team as a product manager. 01:10:57

21 Q. Okay. All right. I want to talk a  
22 little about your understanding of Incognito Mode  
23 in Chrome. To do that, let's actually look at a  
24 document.

25 MR. LEE: Augusto, can you put up Tab 1, 01:11:10

1 please.

2 BY MR. LEE:

3 Q. And, Ms. Borsay, what I like to do is I  
4 like to upload the document the way it was  
5 yesterday, but I also like to look at it on the 01:11:24  
6 screen so that I can see it and we can all kind of  
7 look at the same thing.

8 So this is what's been marked Exhibit 1  
9 for identification purposes. It is  
10 GOOG-CABR-00352924. 01:11:45

11 And you see that on --

12 MS. CRAWFORD: James, give us a second  
13 because I want to make sure. You've  
14 published this to Veritext Exhibit Share, and  
15 you will be doing that; right? 01:11:56

16 MR. LEE: Yeah.

17 MR. CIVIDINI: I just did.

18 MS. CRAWFORD: Okay. So give me a  
19 second. Let's just make sure that the  
20 witness has this up in front of her, the same 01:12:04  
21 way we were looking at documents yesterday --  
22 okay, we're all set.

23 MR. CIVIDINI: Did it go through?

24 MR. LEE: Okay.

25 MS. CRAWFORD: Yep, it did. Thank you. 01:12:13

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## CONFIDENTIAL ATTORNEYS' EYES ONLY

1 We just got it.

2 (Exhibit 1 was received and marked  
3 for identification on this date and is  
4 attached hereto.)

5 BY MR. LEE: 01:12:15

6 Q. All right. Exhibit 1 is a document  
7 produced from your files, and it's an e-mail that  
8 you wrote to other employees at Google.

9 Do you see that?

10 A. I do see that. 01:12:24

11 Q. Okay. I want to direct your attention to  
12 the second paragraph in the first e-mail here on  
13 the first page beginning with "But."

14 Do you see that paragraph?

15 A. Mm-hmm. 01:12:34

16 Q. Okay.

17 A. Should I read it?

18 Q. Sure. Why don't you read it to yourself,  
19 and then I'll ask you a couple questions.

20 A. Okay, I read it. 01:13:04

21 Q. Okay. In that second paragraph, do you  
22 see where you wrote in reference to Chrome users  
23 that "they're not at all more secure in incognito  
24 mode"?

25 A. I see that, yeah. 01:13:20

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1 Q. Those are your words; correct?

2 A. It looks like an e-mail from me in 2016,  
3 yes.

4 Q. And no reason that you would have been  
5 lying when you wrote those words that users are 01:13:28  
6 "not at all more secure in incognito mode"; right?

7 MS. CRAWFORD: Objection to the form of  
8 the question. Foundation.

9 THE WITNESS: So the thing that it tells  
10 me, looking at that old e-mail from back 01:13:42  
11 then, is that at the time that was my  
12 impression.

13 I'm happy to explain what I can imagine  
14 my -- yeah, caused me to write this.

15 BY MR. LEE: 01:13:55

16 Q. Okay. Why don't we look at the next  
17 sentence where you write, "The only thing  
18 Incognito mode does, is clearing your browsing  
19 history from your device when you close the  
20 window." 01:14:05

21 Do you see that?

22 A. Mm-hmm, I do.

23 Q. Those are your words; right?

24 A. Looks like it to be.

25 Q. Okay. And were you telling the truth or 01:14:12

1       lying when you wrote that "Incognito mode does, is  
2       clear your browsing history from your device when  
3       you close the window"?

4               MS. CRAWFORD: Objection. Argumentative.

5               You can answer. 01:14:28

6               THE WITNESS: So the thing I can say is  
7       that I apparently wrote that. But I'm happy  
8       to explain the functionality of Incognito if  
9       you're interested in hearing that.

10              BY MR. LEE: 01:14:39

11              Q. I just want to know that the statement  
12       that you wrote, that "The only thing Incognito  
13       Mode does is clear your browsing history from your  
14       device when you close the window," I want to know  
15       if that was the truth or a lie. 01:14:46

16              MS. CRAWFORD: Argumentative. Also  
17       mischaracterizes the witness's testimony.

18              THE WITNESS: I think that the browser  
19       and also Incognito Mode does a lot of things  
20       while someone is browsing, and I'm not 01:15:00  
21       talking about all of those things.

22              So I think I phrased it really not likely  
23       here because there are certainly more things  
24       that a browser knows Incognito does.

25       ///

1 BY MR. LEE:

2 Q. Are you done with your answer?

3 A. Yeah, but I'm happy to explain the  
4 functionality.

5 Q. Incognito Mode has never actually stopped 01:15:21  
6 Google, and I'm saying Google, from collecting  
7 Chrome users' browsing information; correct?

8 MS. CRAWFORD: Objection. Foundation.

9 Form of the question. Incomplete  
10 hypothetical. 01:15:35

11 You can answer.

12 THE WITNESS: I have no insights what  
13 data, information Google may or may not  
14 collect.

15 BY MR. LEE: 01:15:53

16 Q. Do you believe that Incognito Mode stops  
17 Google from collecting users' browsing  
18 information?

19 MS. CRAWFORD: Same objections.

20 THE WITNESS: I would even like to 01:16:00  
21 understand what you mean with Google here.

22 BY MR. LEE:

23 Q. You don't know what Google is?

24 MS. CRAWFORD: Misstates the witness's  
25 testimony. Argumentative. 01:16:07

1 BY MR. LEE:

2 Q. Mrs. Borsay, do you not know what Google  
3 is?

4 A. That's not what I said. I asked if you  
5 can specify your question in order for me to be 01:16:14  
6 able to answer it.

7 Q. Sure.

8 A. To --

9 Q. Let me rephrase it.

10 As the product manager of Chrome Privacy, 01:16:23  
11 where you were in charge of managing the Incognito  
12 Mode feature. Can you tell the jury whether  
13 Incognito Mode stops Google from collecting Chrome  
14 users' browsing information; yes or no?

15 MS. CRAWFORD: Objection to the form of 01:16:45  
16 the question. Foundation. Assumes facts.  
17 Vague.

18 You can answer.

19 THE WITNESS: Again, I would first not  
20 know exactly what you mean with Google. 01:16:54

21 Second, I do not have insights into what  
22 data Google may or may not collect. I'm  
23 happy to talk about Chrome Incognito Mode's  
24 behavior.

25 ///

1 BY MR. LEE:

2 Q. Okay. So let me just make sure that  
3 we're on the same page, and then we can move on.

4 The reason why you can't answer my  
5 question is because you aren't sure what I mean by 01:17:16  
6 Google; is that fair?

7 MS. CRAWFORD: Objection. Misstates the  
8 witness's testimony.

9 THE WITNESS: No, I asked you to clarify  
10 that, but that's not the reason that I 01:17:26  
11 stated.

12 BY MR. LEE:

13 Q. What is your confusion behind the word  
14 "Google" so that I can maybe rephrase?

15 A. Is it Google Search that you are talking 01:17:39  
16 about? Is it a brand Google that you are talking  
17 about?

18 Q. What company do you work for,  
19 Mrs. Borsay?

20 A. Is the company, Google. 01:17:52

21 Q. What -- what -- who do you work for,  
22 Mrs. Borsay?

23 A. I do work for Google.

24 Q. Okay. You also said, if I'm being clear,  
25 that you couldn't answer my question because you 01:18:03

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1 don't know one way or the other what Google  
2 collects from users when they are in Incognito  
3 Mode; is that correct?

4 A. I did say I do not know what Google may  
5 or may not collect. 01:18:20

6 Q. Does Incognito Mode give Chrome users the  
7 ability to control what Google collects?

8 MS. CRAWFORD: Objection to the form of  
9 the question. Lack of foundation. Assumes  
10 facts. Incomplete hypothetical. 01:18:36

11 You can answer.

12 THE WITNESS: So Incognito Mode, I think  
13 it makes sense to talk about what it does.  
14 And what I can talk to is that when you open  
15 Incognito Mode, it gives you a fresh cookie 01:19:00  
16 slate.

17 And then you can browse, and when you  
18 close Incognito Mode, the cookies are deleted  
19 from this device so that people who use the  
20 same device cannot see your browsing. 01:19:13

21 That's what it's built for, that's what  
22 it's marketed and that's what it does.

23 BY MR. LEE:

24 Q. Okay. Are you done?

25 A. Yes. 01:19:23

1 Q. Okay. Move to strike.

2 Let me ask you the question that I asked,  
3 okay? I want you to focus on my question.

4 Does Incognito Mode give Chrome users the  
5 ability to control what information Google 01:19:33  
6 collects?

7 MS. CRAWFORD: Argumentative. Asked and  
8 answered. Lack of foundation. Incomplete  
9 hypothetical.

10 THE WITNESS: Yeah, I'm struggling to 01:19:47  
11 understand what you mean with that question.  
12 I explained what Incognito Mode does, and --

13 BY MR. LEE:

14 Q. Okay.

15 A. -- to -- to -- also, one more thing, 01:19:56  
16 maybe it helps you here, is that Incognito Mode,  
17 Chrome doesn't share the signal that the user  
18 isn't in Incognito Mode with the websites that the  
19 user may visit.

20 Q. Does any information from the user go to 01:20:20  
21 Google when the user is in Incognito Mode; do you  
22 know?

23 A. I do not know, like I said a few times.

24 Q. Okay. You've never asked anybody?

25 Yesterday you talked about how you speak with your 01:20:36



1 engineers all the time. You've never asked that  
2 question to any of your engineers?

3 MS. CRAWFORD: Argumentative.

4 THE WITNESS: No, I didn't.

5 BY MR. LEE: 01:20:44

6 Q. Okay. And in your time as the product  
7 manager for Chrome Privacy, including the  
8 Incognito Mode feature, you never thought to  
9 determine what information Google collects while  
10 users are in Incognito Mode? 01:20:58

11 MS. CRAWFORD: Argumentative. Assumes  
12 facts.

13 THE WITNESS: No.

14 MR. LEE: Okay. Let's look at the next  
15 exhibit. Augusto, why don't you load that. 01:21:11  
16 And then once you have that uploaded, we can  
17 share screen again.

18 BY MR. LEE:

19 Q. All right. Mrs. Borsay, before we look  
20 at this document, I just wanted to ask you, during 01:21:28  
21 your time as the product manager for Chrome  
22 Privacy, did you become aware of potential user  
23 misconceptions regarding what Incognito Mode  
24 actually does?

25 MS. CRAWFORD: Objection. Foundation. 01:21:39

1           You can answer.

2           THE WITNESS: So I am aware that users  
3           have misconceptions with what private  
4           browsing modes offered to them.

5           For example, I am aware that some people           01:21:56  
6           assume and desire, I guess, to be able to  
7           sign in to a website like LinkedIn and be  
8           invisible so that LinkedIn wouldn't see that  
9           they signed in.

10          So that's one of the misconceptions that           01:22:14  
11          I'm aware of.

12          (Exhibit 2 was received and marked  
13          for identification on this date and is  
14          attached hereto.)

15          BY MR. LEE:   01:22:20

16          Q. Okay. So take a look at Exhibit 2.  
17          Exhibit 2 is a document produced by Google with  
18          production numbers GOOG-CABR-05468324. That's the  
19          beginning Bates.

20          Mrs. Borsay, do you have the document up           01:22:38  
21          on your screen, just so I know?

22          A. Yes.

23          Q. Okay. Do you see on the first page,  
24          right at the top, that your name is listed right  
25          there under "Perceptions of Google Chrome           01:22:51

1 Incognito"?

2 A. No.

3 Q. All right. Let's take it from the top.

4 Let me try it again.

5 Do you see, right at the top, the title 01:23:02  
6 of the document is "Perceptions of Google Chrome  
7 Incognito"?

8 A. Yeah, under "userexperience."

9 Q. Yeah. Okay. And the document is dated  
10 January 2015; right? 01:23:18

11 A. Mm-hmm.

12 Q. So at the time that you received this  
13 document, you were the product manager for Chrome  
14 Privacy; correct?

15 A. Correct. 01:23:28

16 Q. And do you see right there under "PM,"  
17 which I'm assuming means product manager, you were  
18 actually listed as receiving this document; right?  
19 Sabine Borsay. Do you see that?

20 A. It doesn't say it. I'm listed as the PM 01:23:37  
21 contact there. It doesn't say if I received it or  
22 anything else. I'm listed as the PM contact  
23 there.

24 Q. Okay. Why don't we -- why don't we go to  
25 the last page. 01:23:50

1 A. Sure. Yeah.

2 Q. I'll represent to you this is the  
3 metadata that Google provided which tells us where  
4 the document came from. Okay?

5 A. Okay. I don't see owner, though, here, 01:24:23  
6 but --

7 Q. Well, it tells you who the custodians  
8 are. So that tells us whose files this document  
9 exists in. Okay?

10 A. I don't know what custodians are. I know 01:24:35  
11 like owner of the doc is someone who created the  
12 document.

13 Q. Okay. I'm not suggesting you created  
14 this document. Custodian -- I'll represent to you  
15 custodian -- if it's in your custodial file, that 01:24:46  
16 means this document exists in your files.

17 Do you understand what that means?

18 A. I do not fully, but I think that's  
19 okay --

20 Q. Okay. Do you see under "AllCustodians" 01:24:55  
21 it has your name listed as one of the recipients  
22 of this document?

23 A. No, it doesn't mean that I would be one  
24 of the recipients of this document. I don't see  
25 an e-mail at the moment -- 01:25:05

1 Q. Okay.

2 A. -- 2015.

3 Q. Right. Even though you're --

4 MS. CRAWFORD: Let's just make sure she's  
5 done with her answer, James, before you -- 01:25:11

6 THE WITNESS: Yeah.

7 MS. CRAWFORD: -- jump in.

8 THE WITNESS: So all what I see -- I  
9 don't know what custodian means -- is their  
10 list of people, I'm listed as one of them. 01:25:20

11 BY MR. LEE:

12 Q. Sure. And that's why I'm -- if you  
13 accept my representation that custodian means that  
14 you have received this in your files, does that --

15 A. I don't know what that means, received in 01:25:31  
16 files.

17 Q. Okay. That's -- that's fine.

18 Do you have a memory of reviewing this  
19 document or receiving this document?

20 MS. CRAWFORD: Objection. Compound. 01:25:41  
21 Vague.

22 THE WITNESS: We looked at the title  
23 slide and then the last slide, which I -- or  
24 slide, which I certainly didn't see it. So  
25 I'm not sure. I would need to review it. 01:25:53

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1 BY MR. LEE:

2 Q. Okay. If you look at the -- let's go to  
3 the top again under "Executive summary."

4 A. Mm-hmm.

5 Q. If you look at the second paragraph under 01:26:05  
6 the "Executive summary," you'll see that this  
7 report was based on an online survey that was  
8 conducted.

9 Do you see that?

10 A. Let me read. 01:26:26

11 I don't know what Amazon's Mechanical  
12 Turk refers to, crowdsourcing platform. I also  
13 don't know what an exploratory online survey is  
14 referring to.

15 One thing I can mention, the "N" 01:26:52  
16 typically stands in user studies for the number of  
17 users that were looked at, which is, yeah --

18 Q. Yeah.

19 A. -- 264.

20 Q. So I'm not asking you about all that. 01:27:02  
21 I'm just -- if you look at the very first line in  
22 that -- that sentence, I'm just saying, do you  
23 understand that this report that we're looking at,  
24 Exhibit 2, is based on the results of an  
25 exploratory online survey? 01:27:16

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1           A. You asked -- your question before was  
2 different, so I answered that I cannot answer the  
3 question before because I don't know what Amazon's  
4 Mechanical Turk is.

5           Q. Okay. So why don't you answer my next           01:27:25  
6 question --

7           MS. CRAWFORD: Wait -- wait a second,  
8 James. I don't think she was done. Perhaps  
9 you can't hear her clearly, but she was still  
10 answering the question you posed.           01:27:34

11           THE WITNESS: Yeah. So what was your  
12 last question? Because, again, the one --  
13 the previous one, I explained why I cannot  
14 answer it. So --

15           BY MR. LEE:           01:27:42

16           Q. According to --

17           A. -- what was the question?

18           Q. Sure. According to this report, it was  
19 based on results from an exploratory online  
20 survey; right?           01:27:48

21           A. That's what it says.

22           Q. Okay. Go to the next paragraph where it  
23 says, "Our results show."

24           Do you see that paragraph, Mrs. Borsay?

25           A. I do see the paragraph. I haven't read           01:27:57

1 it.

2 Q. Okay. Why don't you read it to yourself.

3 A. Okay, I read it.

4 Q. Okay. Item iii, do you see where there's

5 a Roman numeral iii there in the paragraph? 01:28:32

6 A. Yes.

7 Q. In the beginning of the paragraph, it

8 says, "Our results show." Right?

9 A. Mm-hmm.

10 Q. And the third thing they identify based 01:28:41

11 on the results is that "participants valued the

12 benefits of Incognito but have various

13 misconceptions which could put their privacy at

14 risk."

15 Did I read that correctly? 01:28:53

16 A. Yes.

17 Q. Okay. So if you received this document

18 in 2015, you would have known that participants in

19 this survey had various misconceptions about

20 Incognito Mode that could put their privacy at 01:29:07

21 risk; right?

22 MS. CRAWFORD: Objection. Assumes facts.

23 Lack of foundation.

24 THE WITNESS: So, first of all, again, I

25 have no idea if I received this user research 01:29:17

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1 or not.

2 One thing I can say for sure now, looking  
3 at the first page, I did not write it. I was  
4 not a user researcher.

5 Yeah, that's what I can say to the first 01:29:33  
6 part of your question already.

7 BY MR. LEE:

8 Q. Okay. And are you aware generally of any  
9 kind of surveys that were taken as part of your --  
10 strike that. 01:29:44

11 Are you aware generally of surveys that  
12 were taken while you were the product manager of  
13 Chrome Privacy regarding user conceptions or  
14 misconceptions of Incognito Mode?

15 MS. CRAWFORD: Objection. Vague and 01:29:56  
16 overbroad. Foundation.

17 You can answer.

18 THE WITNESS: I wouldn't be able to tell  
19 after so many years what -- if it was exactly  
20 about conceptions or misconceptions, what you 01:30:07  
21 said, but I am aware that there were user  
22 studies that were conducted.

23 BY MR. LEE:

24 Q. Okay. And would you have reviewed any of  
25 those studies as part of your function as a 01:30:17

1 product manager?

2 A. It's hard to tell what I reviewed or not.

3 This document seems super long, so I would be

4 skeptical that I had the time to look at it

5 because, keep in mind, I was the PM for Chrome 01:30:30

6 Privacy, Chrome Password Manager, Autofill,

7 Payments, Web Identity -- Web Identity for Web

8 Developers, so I had various roles that I can

9 continue with the list of features.

10 So it was very, very limited time, yeah, 01:30:47

11 when I was able to spend to -- to different

12 features.

13 Q. Okay. And do you know whether the work

14 described in this report contributed to a

15 presentation to Sundar Pichai in 2015? 01:30:59

16 MS. CRAWFORD: Objection. Foundation.

17 THE WITNESS: I have no idea.

18 BY MR. LEE:

19 Q. Okay. Let's look at the second page

20 under "Objective." 01:31:11

21 A. Yeah.

22 Q. Do you see in the last sentence it says,

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] " ? 01:31:27

1 A. I see the sentence, yeah.

2 Q. And that's Sunday Pichai; correct?

3 A. I do not know.

4 MS. CRAWFORD: Foundation.

5 BY MR. LEE: 01:31:33

6 Q. You don't know?

7 A. No. From where would I know? I didn't  
8 write this.

9 Q. You testified yesterday that you don't  
10 know any other Sundars at Google; right? 01:31:41

11 A. Yeah, but that has nothing to do with  
12 whoever wrote this had in mind. So I just say  
13 truthfully I do not --

14 Q. Sure.

15 A. -- know. 01:31:48

16 Q. Okay. Let's just stick to my question.

17 A. There's nothing else I can say truthfully  
18 to this.

19 Q. Sure. But it is true that you don't know  
20 any other Sundar -- Sundars at Google; right? 01:31:56

21 A. Not from the top of the head. I cannot  
22 exclude that there was no other Sundar that came  
23 across my work, it's possible.

24 Q. Right, and --

25 A. But I don't recall a different one -- 01:32:08

1 MS. CRAWFORD: Wait a second, James.

2 THE WITNESS: -- from the top of my head.

3 BY MR. LEE:

4 Q. And do you know anybody that would have

5 received -- strike that. 01:32:13

6 Do you know anybody named Sundar that is

7 not Sundar Pichai where a privacy policy

8 presentation that included the work from this

9 survey would have been presented?

10 MS. CRAWFORD: Assumes facts. Lack of 01:32:28

11 foundation. Vague and ambiguous.

12 THE WITNESS: I don't have a particular

13 person in mind, but I just don't know. I

14 wouldn't know. Possible that's what it

15 meant. I don't know. 01:32:43

16 BY MR. LEE:

17 Q. Focusing on that same sentence, it says

18 "[REDACTED]

19 [REDACTED]."

20 Do you know what the name of that 01:32:52

21 presentation was?

22 A. No. I have no idea what it's referring

23 to.

24 Q. Okay. And do you know if this mystery --

25 mystery man named Sundar was informed in 2015 of 01:33:02

1 the findings in Exhibit 2 that Incognito users had  
2 various misconceptions about Incognito Mode which  
3 could put their privacy in jeopardy?

4 MS. CRAWFORD: Argumentative. Assumes  
5 facts. Lack of foundation. 01:33:18

6 THE WITNESS: So again, I'm not aware of  
7 who this is talking about nor what was said  
8 or not said.

9 But let me just read that sentence one  
10 more time -- sorry, just let me look at it 01:33:28  
11 here.

12 MS. CRAWFORD: Yeah, you should always  
13 look.

14 THE WITNESS: So even that sentence  
15 doesn't talk about whether this research was 01:33:49  
16 presented as you framed it.

17 BY MR. LEE:

18 Q. Yeah, I'm not saying what's in the  
19 document. I'm asking for your personal knowledge.

20 Do you know, as the product manager for 01:34:00  
21 Chrome Privacy, if the mystery man named Sundar  
22 was informed in 2015 of the finding in this  
23 document that Incognito users had various  
24 misconceptions about Incognito Mode which could  
25 put their privacy at risk? 01:34:16

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1           A. So again, I do not know. But I can add  
2           that I would be extremely surprised if the  
3           findings of this super-long-looking research would  
4           have been shared with, let's say, if you are, you  
5           know, looking for Sundar Pichai, I would be very           01:34:34  
6           surprised about that.

7           MR. LEE: Okay. Let's look at the next  
8           document, Augusto.

9           MS. CRAWFORD: And, Augusto, just let us  
10          know when it's been published.           01:34:58

11          MR. CIVIDINI: Been published.

12          MS. CRAWFORD: Thank you.

13          MR. LEE: We're going to mark this. Let  
14          me identify. The beginning Bates is  
15          GOOG-BRWN-00437645, and it will be marked for           01:35:12  
16          this deposition as Exhibit 3.

17          (Exhibit 3 was received and marked  
18          for identification on this date and is  
19          attached hereto.)

20          BY MR. LEE:           01:35:24

21          Q. You worked on the Chrome Incognito Mode  
22          rebranding effort in 2015, Mrs. Borsay, right?

23          A. I'm not sure what you are referring with  
24          Incognito rebranding effort from 2015.

25          Q. Did you work on any effort to rebrand           01:35:37

1 Incognito Mode in 2015?

2 A. Well, effort, I'm not sure if that's the  
3 right word. At some point we did explore with the  
4 team what rebrand could potentially look like.

5 Q. Okay. Now, why don't you turn to the 01:35:55  
6 last page of the document.

7 A. Give me a moment, please.

8 Q. While you're heading there, I'll just  
9 state for the record this is the metadata provided  
10 by Google in producing this document. 01:36:39

11 A. Okay.

12 Q. Do you see the title of the document at  
13 the very bottom is "Chrome Incognito Mode  
14 rebranding"?

15 A. Mm-hmm. 01:37:28

16 Q. And do you see the field titled  
17 "Custodian/Source"?

18 A. Yes, I do.

19 Q. Okay. And whose -- whose name is listed  
20 there? 01:37:40

21 A. It's mine.

22 Q. Okay. And do you see, just under that,  
23 it says "AllCustodians"?

24 A. Yes.

25 Q. And who is the only name listed there? 01:37:48

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1 A. It's just mine.

2 Q. Did you --

3 A. But that doesn't mean --

4 Q. Did you write this document?

5 A. I don't know, I seem to have created it. 01:37:58

6 But what I said yesterday, it's very, very common  
7 for a PM, and especially myself, to represent not  
8 just my own views. I might have copy-pasted  
9 something in here from me. I don't know the  
10 context from other people, what they said. I 01:38:14  
11 might be stating other people's opinions.

12 So the thing we know is that it seems  
13 that I created this doc to begin with, but what it  
14 represents is something we would need to look into  
15 and then I can comment. 01:38:28

16 Q. Okay. Do you think you would have  
17 copy-pasted work from outside of Google to prepare  
18 this document?

19 MS. CRAWFORD: Objection insofar as it  
20 calls for speculation and is vague and 01:38:38  
21 ambiguous.

22 You can answer.

23 THE WITNESS: Yeah, I'm not sure what you  
24 mean with "work from outside of Google."

25 ///



1 BY MR. LEE:

2 Q. Well, there's internal Google  
3 information, you know, you could have copy and  
4 pasted from another employee within Google, right?

5 A. Yeah. 01:38:53

6 Q. Or you could have gone on the internet  
7 and found articles written by people outside of  
8 Google and pasted that in here.

9 My question to you is what was your  
10 practice? Did you -- when you say that sometimes 01:39:03  
11 you copy and pasted things to create a document, a  
12 document such as this one, would you have copy and  
13 pasted from -- from people that work from -- that  
14 was generated within Google or outside Google?

15 MS. CRAWFORD: Vague and ambiguous. 01:39:17

16 THE WITNESS: So there's no universal  
17 answer to that. It completely depends on the  
18 context. Both is certainly very possible.

19 BY MR. LEE:

20 Q. Right. But we have the context. We have 01:39:28  
21 the document. So why don't you take a look at the  
22 document and see if you can identify anything you  
23 would have pasted from outside of Google.

24 MS. CRAWFORD: Argumentative.

25 THE WITNESS: I think it will be 01:39:43

1 impossible for me to say. It's many, many  
2 years ago. I don't remember who said what,  
3 if I wrote this, if I copied it, if I typed  
4 it myself.

5 What is your concrete question? Maybe we 01:39:56  
6 can...

7 BY MR. LEE:

8 Q. Is this document familiar to you at all?

9 A. No, it doesn't look familiar.

10 Q. All right. Let's go to the first page. 01:40:11  
11 You can see from the first page that -- from the  
12 headings, that this document concerns Incognito  
13 Mode; right?

14 A. So "Proposed incognito mode definition,"  
15 for example, right, that subheading you mean? 01:40:28

16 Q. Yeah. I just mean generally this  
17 document is about Incognito Mode; right?

18 A. I would need to read it again to be able  
19 to say that for certain. But I see "Incognito  
20 Mode" in the subtitles, yes. 01:40:38

21 Q. Okay. Let's go to the second page.

22 A. Yeah.

23 Q. Do you see where it says, "Problems of  
24 the current branding"?

25 A. Give me a second. There, yeah. 01:40:54

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1 Q. Yeah. Okay. And can you please read  
2 aloud the first bullet below "Problems of current  
3 branding"?

4 A. Sure. It says in this doc, "Name and spy  
5 indicate that you are invisible. Some" -- 01:41:11

6 Q. You said "invisible"; right?

7 A. Hmm?

8 Q. I missed the last part. Did you say  
9 "invisible"?

10 A. Yes. 01:41:19

11 Q. Okay. We are on the same page.

12 A. That's what the doc says, yeah.

13 Q. Okay. So I want to talk about the name  
14 Incognito. The word "incognito" means hidden,  
15 concealed or invisible. Do you agree? 01:41:34

16 MS. CRAWFORD: Objection. Foundation.

17 Assumes facts.

18 You can answer.

19 THE WITNESS: I do not know what the  
20 definition of -- of the word is. 01:41:44

21 BY MR. LEE:

22 Q. Okay. How about the Incognito spy guy, I  
23 want to talk about him. You agree the spy icon  
24 shows a man in disguise; right?

25 MS. CRAWFORD: Objection. Foundation. 01:41:58

1 THE WITNESS: I don't know the English  
2 term used, like man in what, sorry? Can  
3 you --

4 BY MR. LEE:

5 Q. In disguise. 01:42:02

6 A. I don't know that English term.

7 Q. Okay. So let's break it down, then.

8 You're familiar with the spy icon in

9 Incognito; right?

10 A. Yes. 01:42:11

11 Q. It shows a man with no eyes; right?

12 MS. CRAWFORD: Foundation.

13 THE WITNESS: I think it has like

14 glasses.

15 BY MR. LEE: 01:42:21

16 Q. Yeah.

17 A. What I remember is a head and glasses.

18 Q. Right. Okay. Great. So we remember a  
19 head with -- a hat with glasses; right?

20 A. Mm-hmm. 01:42:29

21 Q. Okay. Can you actually see his eyes,  
22 ears, mouth or nose?

23 MS. CRAWFORD: Objection. Foundation.

24 Speculation. Incomplete hypothetical.

25 Assumes facts. 01:42:38

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1 THE WITNESS: I don't know by heart, but  
2 you can look it up. I'm not sure what the  
3 question is about.

4 BY MR. LEE:

5 Q. Is it your testimony, ma'am, that you 01:42:49  
6 don't know what the Incognito spy icon looks like?

7 A. I just --

8 MS. CRAWFORD: Objection. Misstates the  
9 witness's testimony. That's not what she  
10 said, James. 01:42:58

11 THE WITNESS: I just explained that I  
12 think it has the glasses and -- and the hat  
13 on. I must say, I don't know from the top of  
14 my head if it has -- I think you mentioned if  
15 the eyes are visible or not, but we can 01:43:12  
16 easily look it up.

17 BY MR. LEE:

18 Q. Sure. Let's look it up.

19 MR. LEE: Augusto, if you Google it, just  
20 Incognito new tab page or something, it 01:43:21  
21 should just come up as an image. Just go to  
22 images and pull that one. That's fine.

23 THE WITNESS: Okay. So what I said.

24 BY MR. LEE:

25 Q. Right. Okay. So now that we have it all 01:43:45

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1 in front of us, for the record, we are looking at  
2 the Incognito spy icon together; right?

3 MS. CRAWFORD: Let me just make it clear.  
4 I'm not exactly sure what it is that you've  
5 pulled up here, what date this is from, what 01:43:58  
6 version of the new tab page we are currently  
7 looking at.

8 So let's just make sure the record is  
9 absolutely clear: You've Googled -- you've  
10 done a Google search for the word "incognito 01:44:09  
11 new tab page," you went to "Images," and now  
12 you're clicking on a result.

13 That is what we are looking at.

14 MR. LEE: Sure. I'm just focusing on the  
15 icon. So I don't think the year matters. 01:44:20

16 THE WITNESS: One more note. You also  
17 keep referencing it as "spy icon." That's  
18 also something -- I don't know why you are  
19 doing that, but -- yeah.

20 BY MR. LEE: 01:44:30

21 Q. Okay. Well, that's what it said in the  
22 document we were just looking at that you believe  
23 you created. So that's why I refer to it --

24 MS. CRAWFORD: Misstates the witness's  
25 testimony with respect to Exhibit 3. That's 01:44:42

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1 not what she said.

2 BY MR. LEE:

3 Q. So let's look at the icon. The man has  
4 no eyes, ears, mouth or nose; right?

5 MS. CRAWFORD: Objection. Assumes facts. 01:44:52

6 But you can answer.

7 THE WITNESS: So what we look at here,  
8 yeah, it doesn't have the eyes and ears or  
9 nose.

10 BY MR. LEE: 01:45:00

11 Q. And as you remembered, he only has a hat  
12 and glasses; right?

13 A. Yeah, that's what I'm looking at here.

14 Q. And the rest of him is invisible; right?

15 MS. CRAWFORD: Objection. 01:45:11

16 Mischaracterizes the document. Assumes  
17 facts.

18 THE WITNESS: Yeah, so I can -- what I'm  
19 seeing are typically icons, basically, that  
20 they show something in a simplified way. And 01:45:31  
21 also, if you are interested in -- in what I  
22 think when I look at this, I see something.  
23 It doesn't look invisible to me at all.  
24 Might look different, glasses, hat.

25 ///

1 BY MR. LEE:

2 Q. So you don't think that this icon  
3 indicates somebody that's invisible?

4 A. No.

5 Q. Okay. Do you -- do you believe -- you 01:46:05  
6 can take that down. Thank you.

7 Do you believe that user -- you know  
8 what, for the record we are going to mark that  
9 icon as Exhibit -- what are we on right now? 3?  
10 We'll mark it as 3A, and we'll provide that to the 01:46:20  
11 court reporter at a break or the end of  
12 deposition.

13 MS. CRAWFORD: Sorry, let's just be  
14 clear. You're marking the icon or the entire  
15 image that was clicked on from the Google 01:46:32  
16 search that you conducted?

17 MR. LEE: Just the icon -- just the icon  
18 is fine. Doesn't really matter. But I guess  
19 for clarity of the record -- you know what,  
20 why don't we make our record towards the end 01:46:46  
21 once we get through our questioning.

22 MS. CRAWFORD: Sure, we can come back to  
23 it.

24 MR. LEE: Great.

25 ///



1 BY MR. LEE:

2 Q. Users have never been invisible while  
3 using Chrome Incognito Mode; right?

4 MS. CRAWFORD: Objection to the form of  
5 the question. Foundation. Assumes facts. 01:47:02  
6 You can answer.

7 THE WITNESS: I'm not sure what you mean  
8 by have been invisible. I've told you how  
9 Incognito functions.

10 BY MR. LEE: 01:47:14

11 Q. Okay. Let's look at that second bullet  
12 in Exhibit 3 that we were looking at under  
13 "Problems of current branding." I'm sorry, not --  
14 not that section. Let me see. Oh, there it is.

15 Okay. Do you see the second bullet at 01:47:33  
16 the very top of that second page we were looking  
17 at?

18 A. Yeah, I do see that.

19 Q. Okay. And it states, "You are not  
20 invisible." 01:47:47

21 Did I read that correctly?

22 A. Yeah.

23 Q. And it also says, "Don't assume you  
24 cannot be re-identified."

25 Did I read that correctly? 01:47:55

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1 A. Yes, you did.

2 Q. Now, as part of your work for Google, did  
3 you at some point become aware of concerns that  
4 the Incognito icon was misleading?

5 MS. CRAWFORD: Objection. Foundation. 01:48:06  
6 Assumes facts.

7 You can answer.

8 THE WITNESS: Not that I'm aware of. I  
9 was aware that some people had certain  
10 misconceptions but not where those were 01:48:20  
11 coming from because people may have various  
12 experiences in their lives. They have read  
13 things in the news. They might have desires,  
14 like I said, to be invisible with the  
15 LinkedIn example that I used earlier. Yeah. 01:48:35

16 BY MR. LEE:

17 Q. Did you become aware that users were --  
18 strike that.

19 Did you have any concerns around the spy  
20 icon being misleading? 01:48:53

21 MS. CRAWFORD: Objection. Foundation.  
22 You can answer.

23 THE WITNESS: No, because again, for me,  
24 it's -- it's just looks potentially  
25 different, right. You also get a new, fresh 01:49:09

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1 cookie jar. But it's not an invisible cloak  
2 to me. It just has glasses and a hat.

3 BY MR. LEE:

4 Q. Okay. And you -- you had said earlier  
5 that you don't know why I was referring to -- 01:49:21

6 MS. CRAWFORD: James, she wasn't done.

7 THE WITNESS: Yeah. So one thing I  
8 wanted to --

9 BY MR. LEE:

10 Q. Oh, sorry. 01:49:26

11 A. -- ask after I just finished answering  
12 the question before is whether we could break. I  
13 could use a bathroom break.

14 MS. CRAWFORD: Yeah, absolutely. I don't  
15 think -- let me just check the realtime. I 01:49:36  
16 don't think there was a question pending on  
17 the record.

18 Assuming you agree, James, we should --

19 MR. LEE: No problem.

20 MS. CRAWFORD: -- maybe take a quick 01:49:45  
21 break. Okay.

22 MR. LEE: No problem.

23 MS. CRAWFORD: Thank you.

24 MR. LEE: Let's go off the record.

25 THE VIDEOGRAPHER: Okay. We are off the 01:49:50

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1 record at 1:49 p.m.

2 (Short break taken.)

3 THE VIDEOGRAPHER: We are back on the

4 record at 2:03 p.m.

5 BY MR. LEE: 02:03:08

6 Q. All right. Mrs. Borsay, I believe you  
7 have Exhibit 4 in front of you uploaded?

8 A. No.

9 MR. LEE: Okay. While we wait for  
10 that -- Augusto, can you put that up, please? 02:03:19

11 (Exhibit 4 was received and marked  
12 for identification on this date and is  
13 attached hereto.)

14 BY MR. LEE:

15 Q. Mrs. Borsay, before we get into this, we 02:03:27  
16 took a 13-minute break. I have to ask, did you  
17 speak to your attorneys during the break?

18 A. Yes, just checking in, how I'm doing.

19 Q. Did you discuss the substance of -- of  
20 this deposition with your attorneys? 02:03:38

21 A. No.

22 Q. Okay. All right. So what I have marked  
23 as Exhibit 4 is GOOG-BRWN-00391825. Exhibit 4 is  
24 an e-mail that -- that is written by you; correct?

25 A. Mm-hmm. It says, yeah, from me. 02:04:02

1 Q. Okay. And the subject line of the e-mail  
2 is "Incognito mode action plan."

3 Do you see that?

4 A. Yes.

5 Q. Okay. And if you go below where -- 02:04:12  
6 beginning with the sentence in your e-mail that  
7 says "our proposal" -- are you with me?

8 A. No. Sorry, what -- I would like to look  
9 at the e-mail.

10 Q. Sure. 02:04:27

11 A. Yeah?

12 Q. Sure. I'm going to ask you about this --  
13 yeah, that's fine.

14 Just let me know when you're ready.

15 A. I'm ready now. 02:06:18

16 Q. Okay. I want to direct you to the third  
17 paragraph of your e-mail where it says "I told  
18 you."

19 A. Okay.

20 Q. Okay. Now, you testified you're not 02:06:27  
21 familiar with the Incognito icon being referred to  
22 as the spy icon. So I want you to read --

23 A. I didn't -- I didn't --

24 Q. Excuse me --

25 A. -- testify -- 02:06:39

1 Q. Excuse me. Excuse me. Excuse me.

2 MS. CRAWFORD: Hold on a second.

3 BY MR. LEE:

4 Q. I'm not finished with my question. I'm

5 not finished with my question. 02:06:45

6 MS. CRAWFORD: You can finish your

7 question, James.

8 BY MR. LEE:

9 Q. All right. Let me rephrase it.

10 Can you read for me the sentence 02:06:53

11 beginning with "I told you about my idea"?

12 A. Mm-hmm. The sentence says "I told" --

13 Q. Why don't you read it out loud into the

14 record for the jury, please.

15 A. "I told you about my idea to replace the 02:07:07

16 spy icon with the new, Google-wide Privacy shield

17 icon."

18 Q. Okay. Thank you. These are your words;

19 right?

20 A. Let me double-check. It looks like it. 02:07:23

21 2015, e-mail from 2015.

22 Q. And you wrote the words "spy icon";

23 correct?

24 A. Looks like it, yeah.

25 Q. Right. And you say the idea to change -- 02:07:33

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1 or "replace the spy icon," that's your idea;  
2 right?

3 MS. CRAWFORD: Objection insofar as it  
4 mischaracterizes the document.

5 You can answer. 02:07:47

6 THE WITNESS: I wrote, "I told you about  
7 my idea." I don't recall every of my ideas  
8 from 2015, now sitting here in 2022, anymore.

9 But I see what I wrote, yeah.

10 BY MR. LEE: 02:08:00

11 Q. Right. You wouldn't take somebody else's  
12 idea and take credit for it; right?

13 MS. CRAWFORD: Argumentative. Vague and  
14 ambiguous.

15 THE WITNESS: So one thing that's in 02:08:10  
16 general I think for all these discussions  
17 helpful to understand is that product  
18 managers also represent their teams, right,  
19 and sometimes individuals on a team have  
20 opinion -- so it's not uncommon that a 02:08:14  
21 product manager would --

22 (Reporter clarifying.)

23 MS. CRAWFORD: What was the lat thing you  
24 got, Renee?

25 (Record read.) 02:08:48

## CONFIDENTIAL ATTORNEYS' EYES ONLY

1 THE WITNESS: I think I was -- yeah, I  
2 missed maybe what you said now, but I wanted  
3 to say that it's not uncommon for product  
4 managers to represent also opinions,  
5 conclusion, viewpoints, plans that are not 02:09:05  
6 just their individual viewpoints but the  
7 team's or someone from the team or someone  
8 from a different team sometimes representing  
9 also others.

10 BY MR. LEE: 02:09:16

11 Q. Right. Sometimes you sponsor others'  
12 ideas; is that fair?

13 MS. CRAWFORD: Objection insofar as it  
14 mischaracterizes the testimony.

15 BY MR. LEE: 02:09:26

16 Q. Okay. I'll withdraw it.

17 Do you see No. 1 under your proposal  
18 where it says, "our proposal would probably be,"  
19 and then you list -- you list out two? Do you see  
20 No. 1 there? 02:09:38

21 A. Yes.

22 Q. And you -- the proposal is that "replace  
23 the spy icon with the Google Privacy icon"; right?

24 A. Mm-hmm, that's what it says, yeah.

25 Q. And under that, the explanation is -- 02:09:55



1 strike that.

2 Under that, you explain the context for  
3 replacing the Incognito spy icon stemmed from  
4 "concerns around the spy icon being misleading."

5 Those are your words; correct? 02:10:09

6 A. I wrote the e-mail, but that doesn't mean  
7 that I had any concerns with it or who had it. It  
8 could be that this is from one person on my team  
9 who phrased those.

10 Q. But -- but this is your e-mail; right? 02:10:23

11 A. Sorry?

12 Q. This is your e-mail; correct?

13 A. Yes.

14 MS. CRAWFORD: Argumentative.

15 BY MR. LEE: 02:10:32

16 Q. You don't attribute this to somebody else  
17 on your team, do you, in this e-mail?

18 MS. CRAWFORD: Objection.

19 Mischaracterizes the witness's testimony in  
20 the document. 02:10:42

21 You can answer.

22 THE WITNESS: To be clear, Mr. Lee, it  
23 says "context" is "concerns around the spy  
24 icon being misleading." I'm just saying that  
25 this should not be interpreted as me having 02:10:52

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1 concerns.

2 BY MR. LEE:

3 Q. Okay. Somebody else has concerns that's  
4 not named in this e-mail; is that your testimony?

5 MS. CRAWFORD: Objection insofar as it 02:11:05  
6 mischaracterizes the document.

7 You can answer.

8 THE WITNESS: It doesn't talk about  
9 myself at all here. It gives context. So  
10 there's nothing in here that suggests that 02:11:16  
11 would be my opinion.

12 BY MR. LEE:

13 Q. But you are one of the people that  
14 proposed this, correct, according to this e-mail?

15 MS. CRAWFORD: Objection insofar as it 02:11:27  
16 mischaracterizes the document. It says "our  
17 proposal would probably be."

18 You can answer.

19 THE WITNESS: Yeah, I'm representing the  
20 group of people, I guess. 02:11:38

21 BY MR. LEE:

22 Q. Sure. Now, despite the proposal made by  
23 you and the group that you're representing, Google  
24 never replaced the Incognito spy icon; correct?

25 MS. CRAWFORD: Objection. 02:11:50

1 Mischaracterizes this document and the  
2 witness's testimony.

3 THE WITNESS: So, what, is there still an  
4 open question to me?

5 BY MR. LEE: 02:12:11

6 Q. Yeah.

7 A. Can you repeat it, please.

8 Q. Despite your proposal to replace the spy  
9 icon, Google never replaced the Incognito spy  
10 icon; correct? 02:12:22

11 MS. CRAWFORD: Objection.

12 (Reporter clarifying.)

13 MS. CRAWFORD: So if it would be  
14 helpful --

15 MR. LEE: Let me just -- let me just 02:13:22  
16 short-circuit this. We'll just do it again.

17 MS. CRAWFORD: Okay.

18 MR. LEE: I'll shorten it to resolve what  
19 I think is Jomaire's objection.

20 BY MR. LEE: 02:13:31

21 Q. Did Google ever replace the spy icon,  
22 Mrs. Borsay?

23 MS. CRAWFORD: Objection to the form of  
24 the question.

25 You can answer. 02:13:39

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1 THE WITNESS: I cannot talk to different  
2 versions of fresh designs that might have  
3 been launched. But I'm not aware of the  
4 completely different icon that I have seen  
5 for Incognito. 02:14:00

6 BY MR. LEE:

7 Q. Have you ever seen an Incognito icon that  
8 didn't have the hat and glasses and no face?

9 A. One more quick thing, because didn't the  
10 court reporter mention she didn't catch my 02:14:12  
11 response? So I thought we are going to go back so  
12 that she can catch what I was saying earlier.

13 MS. CRAWFORD: I guess if James wants to  
14 ask that question again, we can make sure  
15 that it's in the record, but -- 02:14:25

16 MR. LEE: Yeah, I just --

17 MS. CRAWFORD: -- up to you whether you  
18 want to put that --

19 MR. LEE: I just decided to do it again  
20 for -- I can't keep wasting time on it. 02:14:30

21 BY MR. LEE:

22 Q. So you asked my -- answer my pending  
23 question, please, which is did Google ever change  
24 the Incognito icon insofar as changing the hat and  
25 glasses and invisible face? 02:14:44

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1 MS. CRAWFORD: Objection. Vague and  
2 overbroad.

3 You can answer.

4 THE WITNESS: I'm not sure what changing  
5 the hat here meant. It's also possible there 02:14:59  
6 may have been fresh designs of the icon,  
7 that's possible.

8 BY MR. LEE:

9 Q. Okay. And do you have a specific  
10 recollection of Google ever changing the Incognito 02:15:08  
11 spy icon?

12 MS. CRAWFORD: Vague and ambiguous.

13 You can answer.

14 THE WITNESS: I don't know for certain,  
15 because I wasn't involved in this space 02:15:27  
16 throughout my time without pauses, but I  
17 vaguely recall that at some point over all  
18 those years there might have been a fresher  
19 version, basically, that maybe -- maybe it  
20 was in the context of material design. 02:15:44

21 Like typically design teams over time  
22 make icons more fresh and modern, basically.  
23 So that's possible that that also happened  
24 with this icon, but I wouldn't be able to  
25 tell for sure. 02:16:01

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1 BY MR. LEE:

2 Q. Okay. So again, you don't have a  
3 specific memory of it changing; is that fair?

4 A. That's what I just said.

5 Q. So is that fair or not? 02:16:10

6 A. I vaguely remember or I vaguely recall  
7 that as part of generally making icons more fresh,  
8 maybe in the context of material, next I think was  
9 name, that this icon was also touched and be made  
10 more modern. But again, I wouldn't be able to say 02:16:29  
11 for certain.

12 Q. And can you identify what changes, if  
13 any, you remember being made?

14 A. Sorry, can you repeat your question,  
15 please. 02:16:36

16 Q. Can you identify any changes that were  
17 made during this so-called refresh?

18 MS. CRAWFORD: Objection.

19 Mischaracterizes the witness's people.

20 You can answer. 02:16:43

21 THE WITNESS: First of all, like I said,  
22 I don't know if that refresh ever happened or  
23 not for this icon. And I also cannot recall,  
24 if it happened, what exactly --

25 ///

1 BY MR. LEE:

2 Q. Okay.

3 A. -- it was about.

4 MR. LEE: Let's go to the next document.

5 We're going to mark it as Exhibit 5. For 02:17:04

6 identification purposes, it's

7 GOOG-BRWN-00391231.

8 (Exhibit 5 was received and marked

9 for identification on this date and is

10 attached hereto.) 02:17:16

11 BY MR. LEE:

12 Q. Do you have the document in front of you,

13 Mrs. Borsay?

14 A. It's not showing up in the folder yet.

15 MS. CRAWFORD: Do you mind letting us 02:17:31

16 know once it's been published?

17 THE WITNESS: I think it's just showed

18 up.

19 MR. CIVIDINI: It's been published.

20 MS. CRAWFORD: Thank you. 02:17:40

21 BY MR. LEE:

22 Q. Do you have it in front of you,

23 Mrs. Borsay?

24 A. I do.

25 Q. Okay. You see -- I don't expect you to 02:17:54

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1 have read it all, I just -- I'm asking, from the  
2 From and the To's and just looking at the  
3 document, you can see that it's a chain e-mail  
4 that you participated in as part of your work at  
5 Google; right?

02:18:08

6 A. Mm-hmm, that's what it looks like to me.

7 Q. Okay. And I want to focus on the third  
8 e-mail, and it's time stamped April 26, 2016,  
9 4:48 p.m. Do you see that e-mail?

10 A. Yes, I do.

02:18:27

11 Q. Okay. And you can see next to that time  
12 stamp that you are the author of this part of the  
13 e-mail; right?

14 A. Yes.

15 Q. Can you read aloud for the jury the  
16 sentences beginning with "All the years of  
17 research"?

02:18:40

18 MS. CRAWFORD: Objection. Assumes facts.  
19 You can answer.

20 THE WITNESS: Yeah, so I wrote this in  
21 2016 it seems.

02:18:52

22 BY MR. LEE:

23 Q. Mrs. Borsay, I'm just asking you to read  
24 into the record what you wrote, please.

25 A. From where?

02:19:00

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1 Q. That is the question that's pending.

2 A. Should I start with "Hi" or with "You"?

3 Q. No. Beginning with "All the years."

4 A. Oh, "All." Okay. Sorry.

5 Q. Yeah. Just read from "All the years" 02:19:10  
6 until you get to "studies," please.

7 A. Okay.

8 "All the years of research hopefully  
9 reflect how much we're actually struggling with  
10 Incognito branding and misconceptions it causes. 02:19:24  
11 So I want you to be aware of what big of a can of  
12 worms we'd be opening with this. The exist -- the  
13 existing misconceptions are actually something  
14 many stakeholders are concerned about and we're  
15 trying to address them for quite some time, which 02:19:42  
16 is why we've run all these studies."

17 Q. Okay. Thank you. This e-mail is from  
18 2016. So when did Google begin its years of  
19 research that you mentioned on the Incognito  
20 branding and the misconceptions it causes? 02:20:00

21 A. I have no idea when the UX research team  
22 did studies on Incognito and when it started or  
23 did not start. I'm not a user researcher.

24 Q. Certainly at least a year or two before  
25 this e-mail dated April 2016; correct? 02:20:19

## CONFIDENTIAL ATTORNEYS' EYES ONLY

1 MS. CRAWFORD: Objection insofar as it  
2 calls for speculation.

3 You can answer.

4 THE WITNESS: Again, I don't know when  
5 someone at Google started, as you asked for, 02:20:36  
6 doing any research in Incognito. But I'm in  
7 2016 here talking about all the years of  
8 research that has been conducted, I guess,  
9 somewhere.

10 BY MR. LEE: 02:20:46

11 Q. Right. But my point is you say "years."  
12 So going back at least until 2014; correct?

13 MS. CRAWFORD: Objection insofar as it  
14 misstates the document. Assumes facts.

15 You can answer. 02:20:56

16 THE WITNESS: I'm not sure. I was not  
17 sure what research this is referring to and  
18 who may have conducted the research.

19 BY MR. LEE:

20 Q. Okay. But you wrote this e-mail; right? 02:21:06

21 A. Yes.

22 Q. Okay. Why did you say that you would be  
23 opening a big can of worms --

24 MS. CRAWFORD: Mischaracterizes -- sorry,  
25 James. There's a lag in the feed, sorry. I 02:21:24

1 didn't mean to jump on you there.

2 MR. LEE: No problem.

3 THE WITNESS: So the thing is, first of  
4 all, I don't know for certain what I thought  
5 in 2016, you know.

02:21:38

6 But the thing that I can imagine,  
7 speculating what I might have thought back  
8 then with opening a can of worms might be  
9 that there were so many different opinions  
10 from different people within Google, outside 02:21:58  
11 of Google.

12 And that's what I touched on earlier. We  
13 have this super wide range of people with  
14 their own different thoughts and expectations  
15 from things. And I can imagine that I was 02:22:10  
16 referring to, yeah, these different opinions.

17 To give you one example, I think we saw  
18 somewhere earlier a mention of a shield icon.  
19 From looking at that e-mail that you showed  
20 me earlier, reading it, it seemed like my 02:22:32  
21 team was -- or part of my team, at least,  
22 maybe, seemed to be in favor of expiring that  
23 icon.

24 But I also recall other people, the  
25 security team, for example, some people on 02:22:47

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1 the security team, at least, were strongly  
2 opposing to that because they were saying  
3 people could, you know, misinterpret that  
4 shield icon in ways that we wouldn't want it.

5 So that was quite typical that, yeah, 02:23:01  
6 there were differing viewpoints on these, on  
7 these things, and I guess that's probably  
8 what I was referring here with can of worms.

9 BY MR. LEE:

10 Q. Who were the stakeholders that were 02:23:17  
11 concerned with the existing misconceptions of  
12 Incognito?

13 MS. CRAWFORD: Objection insofar as it  
14 calls for speculation.

15 You can answer. 02:23:25

16 THE WITNESS: So I assume, for example,  
17 some people on the security team.

18 BY MR. LEE:

19 Q. Who are -- can you identify who within  
20 Google was concerned with the existing 02:23:41  
21 misconceptions within Incognito Mode?

22 MS. CRAWFORD: Asked and answered.

23 THE WITNESS: So I recall someone from  
24 the security team having strong opinions  
25 about that, for example. 02:23:51

1 BY MR. LEE:

2 Q. Okay. What was this person's name?

3 A. Chris.

4 Q. Chris what?

5 A. Chris Palmer. 02:24:00

6 Q. He's the only person you can think of  
7 that was concerned with the existing  
8 misconceptions within Incognito Mode?

9 MS. CRAWFORD: Argumentative. Misstates  
10 the witness's testimony. Assumes facts. 02:24:10  
11 You can answer.

12 BY MR. LEE:

13 Q. Is he the only one, or can you think of  
14 others?

15 A. He's the one I remember. That's like six 02:24:17  
16 to eight years ago. So, yeah, he's right now the  
17 only one I can think off the top of my head.

18 Q. Okay. You do recognize that you refer to  
19 more than one, though, right, in your e-mail? You  
20 say "stakeholders"; right? 02:24:34

21 Do you see that?

22 A. That's also possible. I just said it's  
23 now six to eight years later. Right away I cannot  
24 recall another name besides Chris Palmer.

25 Q. Okay. When we were discussing Exhibit 3, 02:24:44

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1 we discussed user misconceptions that they were  
2 invisible in Incognito Mode, partly because of the  
3 Incognito name and spy icon.

4 Do you remember that we talked about  
5 that?

02:25:02

6 A. Mmm, no --

7 MS. CRAWFORD: Yeah, objection --

8 THE WITNESS: -- I wouldn't --

9 MS. CRAWFORD: -- insofar as that

10 mischaracterizes the witness's testimony and  
11 misstates the documents.

02:25:05

12 BY MR. LEE:

13 Q. Sure. Let's go back to Exhibit 3. I  
14 just want to point out "Problems of the current  
15 branding." Do you have it up on the screen? We  
16 have it on the screen share.

02:25:16

17 A. Which document again just to make sure?

18 Q. Exhibit 3.

19 A. 3, okay.

20 MR. LEE: What page is this for

02:25:35

21 Mrs. Borsay? Is it page 2, Augusto?

22 MR. CIVIDINI: Yeah, it's page 2.

23 BY MR. LEE:

24 Q. Okay. I don't know if you're looking at  
25 the screen share or you're on the document,

02:25:44

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1 Ms. Borsay, so I'm just trying to direct you.

2 A. Both. I'm seeing it.

3 Q. Okay. Do you see under "Problems of the  
4 current branding," it says, "Name and spy indicate  
5 that you are invisible"? 02:25:53

6 A. I see that, yeah.

7 Q. Right. And we -- we talked about that  
8 language already; right? You recall?

9 A. I guess so, yeah.

10 Q. Okay. Now, let's go back to the current 02:26:08  
11 exhibit, Exhibit 5, and I want to scroll down a  
12 little bit. There we go.

13 In the second bullet of your e-mail, you  
14 write that Chrome Incognito mode, "does not  
15 provide anonymity/invisibility towards any other 02:26:26  
16 party (such as the websites you visit or Google)."

17 Did I read that correctly?

18 A. You did read it correctly, yeah.

19 Q. Okay. And can you identify for me any  
20 public disclosure from Google that specifically 02:26:42  
21 tells users that Incognito Mode does not provide  
22 anonymity or visibility from Google?

23 MS. CRAWFORD: Objection. Argumentative.

24 Also assumes facts.

25 THE WITNESS: So I think Incognito new 02:27:03

1 tab page clearly even states that new  
2 activity can be seen -- or we would need to  
3 look at the exact phrasing by websites that  
4 you visit.

5 BY MR. LEE: 02:27:16

6 Q. Right. But my question is a little  
7 different. My question was: Can you identify for  
8 me any public disclosure from Google, including  
9 the new tab page, that specifically tells users  
10 that Incognito Mode does not provide anonymity or 02:27:26  
11 invisibility from Google?

12 A. And my answer was to that, Google is a  
13 website. We talked --

14 Q. Okay.

15 A. -- the new tab page of Incognito Mode is 02:27:41  
16 in the context of the browser. Google is one  
17 website.

18 Q. Okay. So your testimony is that when  
19 users go on to Google.com, they are visible to  
20 Google; but if they are not on a Google -- on the 02:27:57  
21 Google website, then they are actually invisible  
22 from Google?

23 MS. CRAWFORD: Objection.

24 Mischaracterizes the witness's testimony.

25 Assumes facts. Lack of foundation. 02:28:08

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1 THE WITNESS: I have not said that.

2 BY MR. LEE:

3 Q. Okay. What are you saying?

4 MS. CRAWFORD: Objection to the form of  
5 the question. Vague and overbroad. Asked 02:28:14  
6 and answered.

7 You can respond.

8 THE WITNESS: I don't have the question.  
9 You said something which was not true, and  
10 now you ask me a question I cannot answer. 02:28:24

11 So can you just phrase the question --

12 BY MR. LEE:

13 Q. Sure. Can you explain to me what part of  
14 my question is incorrect?

15 MS. CRAWFORD: What was the question, 02:28:35  
16 James?

17 THE WITNESS: Yeah.

18 MS. CRAWFORD: I think the witness has  
19 said she's unclear as to the question you've  
20 posed. 02:28:39

21 BY MR. LEE:

22 Q. So the new tab page says that you are  
23 invisible to the websites you visit, and you said  
24 that Google is a website; correct?

25 THE WITNESS: First of all, I cannot talk 02:28:53

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## CONFIDENTIAL ATTORNEYS' EYES ONLY

1 to what the new tab page says by heart when I  
2 don't look at it. Starting with that. You  
3 just said something about invisibility, I  
4 don't know. We would need to look at the new  
5 tab page if we want to talk about the exact 02:29:03  
6 language on it.

7 BY MR. LEE:

8 Q. Okay. Why don't we pull up that same new  
9 tab page.

10 A. Sure. 02:29:09

11 (Exhibit 3A was received and marked  
12 for identification on this date and is  
13 attached hereto.)

14 MR. LEE: It's been marked as Exhibit 3A.

15 MS. CRAWFORD: Actually, James, because I 02:29:14  
16 don't know what that is that you just  
17 represented as Exhibit 3A, how about you open  
18 an Incognito -- I don't know if the second  
19 chair who's working with you has Chrome,  
20 but -- it can be used -- 02:29:29

21 MR. LEE: That's fine. Augusto, if you  
22 can do that, that's fine with me.

23 MR. CIVIDINI: So instead of 3A, a new  
24 Incognito tab.

25 MR. LEE: Well, yeah, that is 3A. She's 02:29:39

1 saying instead of opening it from Google

2 Search just --

3 MS. CRAWFORD: Because I don't -- I don't

4 know exactly what it is that you've queried.

5 I know that you're doing a screen share, but 02:29:49

6 honestly I can't see with specificity what

7 that is.

8 MR. LEE: We have it up. We have it up

9 now.

10 BY MR. LEE: 02:29:57

11 Q. Okay. So let's look at it together,

12 Mrs. Borsay. I think what you're referring to is

13 the -- on the right-hand column of the new tab

14 page, it says "Your activity might still be

15 visible to." 02:30:06

16 Do you see that?

17 A. Mm-hmm. I do see that, yeah.

18 Q. And it says "websites you visit"; right?

19 Is that right?

20 A. Yes, it is. 02:30:14

21 Q. Okay. "Your employer or school"; right?

22 A. Mm-hmm.

23 Q. Is that right?

24 A. Yes.

25 Q. And "your Internet service provider"; 02:30:22

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1 right?

2 A. Yes.

3 Q. Okay. Doesn't list Google there, does  
4 it?

5 MS. CRAWFORD: Objection to the form of 02:30:30  
6 the question. Foundation.  
7 You can answer.

8 THE WITNESS: It doesn't list specific  
9 websites here.

10 BY MR. LEE: 02:30:38

11 Q. Does it specifically list Google?

12 A. Sorry, can you --

13 Q. Does it specifically list Google?

14 A. It does not, and I wouldn't know why it  
15 should. 02:30:47

16 Q. Okay. And is it your testimony that  
17 Google is merely a website and not an actual data  
18 collection company?

19 MS. CRAWFORD: Objection insofar as that  
20 misstates the witness's testimony. Also 02:30:57  
21 characterization and assumes facts.

22 You can answer.

23 THE WITNESS: I haven't said that.

24 BY MR. LEE:

25 Q. Okay. Can you identify for me anywhere 02:31:07

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1 in here where Google is listed or named or  
2 referenced?

3 MS. CRAWFORD: Asked and answered.

4 THE WITNESS: Like I said, I wouldn't  
5 know why. 02:31:22

6 BY MR. LEE:

7 Q. Okay. So let me go back to my original  
8 question, then. Can you identify for me any  
9 public disclosure from Google that specifically  
10 tells users that Incognito Mode does not provide 02:31:28  
11 anonymity or invisibility from Google?

12 MS. CRAWFORD: Same set of objections  
13 including that that question now has been  
14 asked and answered.

15 THE WITNESS: Yeah, it talks -- the first 02:31:42  
16 sentence, you can see here that it talks  
17 about what Incognito Mode does: Now you can  
18 browse privately and other people who use  
19 this device won't see your activity.

20 So I'm not sure how Google as a company 02:32:02  
21 would be other people who use this device.

22 BY MR. LEE:

23 Q. Has anyone at Google ever told that you  
24 Incognito Mode is effectively a lie?

25 MS. CRAWFORD: Objection. Foundation. 02:32:13

1 MR. LEE: You can take this down, by the  
2 way, Augusto. Thank you.

3 THE WITNESS: What does it mean, taking  
4 this down?

5 MR. LEE: No, I was talking to Augusto. 02:32:24  
6 Let me ask you again.

7 BY MR. LEE:

8 Q. Has anyone at Google ever told you that  
9 Incognito Mode is effectively a lie?

10 MS. CRAWFORD: Same objection. 02:32:32  
11 You can answer.

12 THE WITNESS: I don't remember anyone  
13 having said that exactly to me, no.

14 BY MR. LEE:

15 Q. Are you aware that at least one Google 02:32:43  
16 employee has described Incognito Mode as  
17 "effectively a lie"?

18 A. If you are referring to a specifically  
19 document, let me know --

20 Q. I'm just asking if you're aware. 02:32:54

21 A. I certainly don't recall that, no.

22 Q. Given your work on user misconceptions  
23 regarding Incognito, does it surprise you to hear  
24 that at least internally a Google employee  
25 described Incognito as effectively a lie? 02:33:10

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1 MS. CRAWFORD: Objection insofar as that  
2 misstates the witness's testimony.

3 THE WITNESS: Yes, it would very much  
4 surprise me because we just looked at it and  
5 it says exactly what it does. 02:33:17

6 BY MR. LEE:

7 Q. Has anyone at Google told you that  
8 Incognito Mode is not truly private?

9 A. So --

10 MS. CRAWFORD: Objection. Vague and 02:33:31  
11 overbroad.

12 THE WITNESS: First --

13 MS. CRAWFORD: Foundation.

14 You can answer.

15 THE WITNESS: I'm sorry. 02:33:36

16 First of all, I wouldn't know what you  
17 mean with like someone told you. Also, like,  
18 people have opinions. You make it sound as  
19 if someone told someone something or said  
20 something as if it were necessarily true or 02:33:43  
21 anything.

22 And yeah, it's vague what you were asking  
23 me, so it's hard to answer. You said  
24 something with private?

25 ///

1 BY MR. LEE:

2 Q. I'm just -- I'm just asking you if  
3 anyone --

4 A. Without context --

5 Q. I'm just asking if anyone at Google has 02:33:58  
6 ever told that you Incognito Mode is "not truly  
7 private."

8 A. I would need to look at documents. I  
9 don't recall. But I've worked at Google for a  
10 long time. 02:34:12

11 Q. Are you aware that Google's executive  
12 Lorraine Twohill described Incognito Mode as not  
13 truly private in an e-mail she sent to Sundar  
14 Pichai?

15 MS. CRAWFORD: Objection insofar as it 02:34:25  
16 calls for speculation and assumes facts.

17 THE WITNESS: So you are asking me if I  
18 am aware of an e-mail from one person to  
19 another?

20 BY MR. LEE: 02:34:38

21 Q. Yeah.

22 A. I'm not aware from the top of my head,  
23 no.

24 Q. Does it surprise you to hear that  
25 Google's chief marketing officer told Google's CEO 02:34:43

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1 that Incognito is not truly private?

2 MS. CRAWFORD: Objection. Insofar as it  
3 calls for an improper opinion. Form and  
4 foundation.

5 You can answer. 02:34:51

6 THE WITNESS: Without even seeing what  
7 you are referring to, it seems that you refer  
8 to some e-mail conversation between two  
9 people that I'm not part of. I can neither  
10 have an opinion or anything on that. 02:35:04

11 BY MR. LEE:

12 Q. Let's -- let's stay with the same  
13 exhibit. Let's go up to the most recent e-mail,  
14 the very top of the page.

15 Do you see that first e-mail, 02:35:17  
16 Mrs. Borsay?

17 A. Yes, I do.

18 Q. Okay. And in that -- in that first  
19 e-mail, you write, "How did the Sundar review go?  
20 Do you have any updates on your current thinking 02:35:29  
21 around the branding?"

22 Do you see that?

23 A. I do.

24 Q. And this is a reference to Sundar Pichai?

25 A. I don't know. 02:35:40

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1 Q. Mrs. Borsay, this is your own e-mail;  
2 right? Right?

3 A. Yes.

4 Q. Okay. And in your own e-mail, the words  
5 you -- you write "Sundar"; right? 02:35:47

6 A. I do.

7 Q. And you told us already you don't know  
8 any other Sundar at Google; right?

9 MS. CRAWFORD: Objection insofar as that  
10 misstates the testimony. 02:35:58

11 You can answer.

12 THE WITNESS: I don't recall a  
13 conversation with other or knowing of other  
14 Sundars.

15 BY MR. LEE: 02:36:10

16 Q. So is it fair to say, then, that since  
17 you know no other Sundars and this is an e-mail  
18 you wrote referencing the only Sundar you know,  
19 that it's Sundar Pichai?

20 MS. CRAWFORD: Same objection. It 02:36:19  
21 mischaracterizes the witness's testimony.

22 You can answer.

23 THE WITNESS: No, I cannot say that for  
24 certain. Like I said, it's possible that  
25 it's referring to Sundar Pichai. But this 02:36:29

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1 e-mail is in 2016, so I cannot say for  
2 certain who this is referring to.

3 I also don't remember every single Google  
4 employee who I might have been in contact  
5 with in 2016. 02:36:40

6 BY MR. LEE:

7 Q. Do you know what this mystery man Sundar  
8 was reviewing in connection with Incognito  
9 branding?

10 A. No. 02:36:58

11 MS. CRAWFORD: Vague. Form. Calls for  
12 speculation.

13 BY MR. LEE:

14 Q. I think you answered. Did you say no?

15 MS. CRAWFORD: Also assumes facts.

16 THE WITNESS: No, I don't.

17 (Reporter clarifying.)

18 BY MR. LEE:

19 Q. Do you know what this mystery man Sundar  
20 was reviewing in connection with Incognito 02:37:33  
21 branding?

22 MS. CRAWFORD: Argumentative.

23 Foundation. Assumes facts.

24 You can answer.

25 THE WITNESS: No. I don't know. 02:37:42

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1 BY MR. LEE:

2 Q. Are you aware of Sundar Pichai also  
3 expressing that he had concerns over the existing  
4 misconceptions about Incognito Mode?

5 MS. CRAWFORD: Same objections. 02:37:55

6 You can answer.

7 THE WITNESS: No, I am not aware.

8 BY MR. LEE:

9 Q. Are you aware of Mr. Pichai ever  
10 expressing that the Incognito Mode branding would 02:38:02  
11 need to be changed to address user misconceptions  
12 about Incognito Mode?

13 MS. CRAWFORD: Objection. Assumes facts.

14 Lack of foundation.

15 THE WITNESS: I'm not aware. 02:38:14

16 BY MR. LEE:

17 Q. Do you recall the Incognito Mode branding  
18 was used beyond just Chrome for a product called  
19 Allo?

20 MS. CRAWFORD: Objection to the form of 02:38:26

21 the question.

22 You can answer.

23 THE WITNESS: Yeah, I vaguely recall

24 that.

25 ///

1 BY MR. LEE:

2 Q. What is Allo?

3 A. I believe it is some sort of chat  
4 service.

5 Q. If you know, whose idea was it to use the 02:38:46  
6 Incognito brand with Allo?

7 A. I have no idea.

8 MR. LEE: Okay. Let's look at the next  
9 exhibit. We're going to mark it Exhibit 6  
10 for identification purposes. It's 02:38:57  
11 GOOG-BRWN-00410878.

12 MR. CIVIDINI: Introduced.  
13 (Exhibit 6 was received and marked  
14 for identification on this date and is  
15 attached hereto.) 02:39:37

16 BY MR. LEE:

17 Q. Do you have Exhibit 6 in front of you  
18 Mrs. Borsay?

19 A. Yes, I do, but I haven't been able to  
20 read it yet, familiarize myself with it. 02:39:41

21 Q. Okay. I'm only going to ask you about  
22 your e-mail in the -- your first e-mail at the top  
23 of the document.

24 A. I would like to take a look because it's  
25 important to understand the context so that I'm 02:39:54

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1 able to answer your question.

2 Q. Sure, let's go off the record and you can  
3 take a look at it let us know when you're back.

4 I'm going to take a quick break. Off the  
5 record, please. 02:40:05

6 MS. CRAWFORD: Sorry, no, wait -- wait a  
7 second. You've shown the witness a document  
8 that is now this e-mail chain, three pages  
9 long. The witness asked for a second to take  
10 a look. 02:40:14

11 If you would like to take a break  
12 independent, that's fine, but obviously the  
13 witness is allowed to review documents in  
14 connection with the questions you're posing.

15 I don't think you're suggesting 02:40:24  
16 otherwise, James. So if you want to take a  
17 break, that's fine, but we'll --

18 MR. LEE: I would like to take a break,  
19 but I would also like Ms. Borsay to read the  
20 e-mail so that we can save time. 02:40:32

21 MS. CRAWFORD: We may grant that on a  
22 limited basis. But also, as a practice,  
23 we're not going to be taking breaks every  
24 time the witness needs to --

25 MR. LEE: I don't -- I don't intend to do 02:40:43

1 that, and I haven't done that at all today.

2 So let's go off the record --

3 THE WITNESS: I need to take a break.

4 MS. CRAWFORD: Okay. Yep, we can go off

5 the record. 02:40:51

6 THE VIDEOGRAPHER: Okay. We are off the

7 record at 2:40 p.m.

8 (Short break taken.)

9 THE VIDEOGRAPHER: We are back on the

10 record at 2:53 p.m. 02:53:54

11 BY MR. LEE:

12 Q. All right, Mrs. Borsay, why don't you

13 take a look at what's been marked as Exhibit 6.

14 Let me know once you're ready to discuss the

15 document, please. 02:54:04

16 A. Okay.

17 Q. All right. I want to direct your

18 attention to the top of the first page in

19 Exhibit 6 here. This is an e-mail that you sent

20 as part of your work at Google; correct? 02:58:01

21 A. Yeah, 2016. Yeah.

22 Q. Okay. And in that first paragraph, do

23 you see in the second sentence where you wrote,

24 "One meeting was after their first Sundar meeting

25 in which he brought up the idea to call Allo's 02:58:23

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1 privacy feature Incognito mode."

2 Do you see that?

3 A. Yes, I do.

4 Q. Okay. And if you know, when -- well, let  
5 me back up. 02:58:40

6 Again, do you still not -- do you still  
7 not think that -- strike that.

8 Is it still your testimony that your  
9 reference to Sundar in this e-mail may or may not  
10 be Sundar Pichai? 02:58:51

11 MS. CRAWFORD: Objection insofar as it  
12 misstates the witness's prior testimony which  
13 wasn't about this exhibit.

14 You can answer.

15 THE WITNESS: So my testimony is that I 02:59:03  
16 don't know for certain if the past  
17 conversation could have not been referring to  
18 someone else. But I also said, and can  
19 repeat that here again, that it's possible  
20 and quite likely that this -- that this is 02:59:19  
21 referring to Sundar Pichai.

22 BY MR. LEE:

23 Q. Okay. Now, if you know, do you know when  
24 Mr. Pichai proposed to call Allo's privacy feature  
25 Incognito Mode, what information -- 02:59:34



1 MS. CRAWFORD: Objection --

2 BY MR. LEE:

3 Q. -- he considered in making that proposal?

4 MS. CRAWFORD: Objection. Assumes facts.

5 Lack of foundation. 02:59:41

6 THE WITNESS: I don't know who proposed  
7 that branding.

8 BY MR. LEE:

9 Q. Well, in your e-mail it says, we just  
10 read it, "after their first Sundar meeting in 02:59:53  
11 which he brought up the idea to call Allo's  
12 privacy feature Incognito mode."

13 Do you see that?

14 A. So I -- what I see here --

15 Q. Well, first answer that question. Do you 03:00:04  
16 see that, Mrs. Borsay?

17 A. I see -- I see the text, yeah.

18 Q. Okay. And those were your words; right?

19 A. Yeah, it's an e-mail that I sent, but I'm  
20 referencing apparently a meeting that I wasn't 03:00:17  
21 part of. I talk about they, right. So therefore  
22 I cannot know what happened in that meeting. I  
23 wasn't part of it.

24 Q. Right. But although you weren't part of  
25 it, you were reporting on that meeting in this 03:00:30

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1 e-mail; correct?

2 MS. CRAWFORD: Objection insofar as it  
3 misstates the document and the witness's  
4 testimony. Vague.

5 You can answer. 03:00:40

6 THE WITNESS: And since I, A, never  
7 worked on Allo, I wasn't part of that  
8 meeting, I wasn't part of the Allo team, so  
9 it's clear to me that I'm passing by  
10 information from whoever was involved in 03:00:51  
11 this.

12 BY MR. LEE:

13 Q. Right. And whoever was involved in this,  
14 according to this e-mail that you wrote, Sundar  
15 Pichai brought up the idea to call Allo's privacy 03:00:58  
16 feature Incognito; correct?

17 MS. CRAWFORD: Objection to the form of  
18 the question. Calls for speculation.  
19 Assumes facts.

20 THE WITNESS: Again, I do not know, and I 03:01:10  
21 would be very surprised -- typically these  
22 discussions and ideas and proposals are all  
23 on the product team's side. But I don't know  
24 who were the product managers of Allo. But  
25 that's typically in the space of a product 03:01:27

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1 team.

2 BY MR. LEE:

3 Q. Okay. So after this meeting with Sundar,  
4 do you know if Mr. Pichai considered the existence  
5 of user misconceptions surrounding Incognito Mode? 03:01:45

6 MS. CRAWFORD: Objection. Assumes facts.  
7 Lack of foundation.

8 You can answer.

9 THE WITNESS: I have no idea what a  
10 different person considered or didn't 03:01:53  
11 consider. I can just talk about myself.

12 BY MR. LEE:

13 Q. Now, in your e-mail in the very next  
14 sentence, or I guess it's the same sentence, the  
15 second part of that sentence, you refer to a 03:02:01  
16 second meeting involving Sundar Pichai; correct?

17 A. In another meeting? Sorry. Seems like  
18 it, yeah.

19 Q. Okay. And you write that at that second  
20 meeting with Mr. Pichai, it was decided to go 03:02:17  
21 forward with calling Allo's privacy feature  
22 Incognito; right?

23 MS. CRAWFORD: Mischaracterizes and  
24 misquotes the document.

25 You can answer. 03:02:27

1 Assumes facts, as well.

2 THE WITNESS: Let me read the sentence  
3 again.

4 BY MR. LEE:

5 Q. Sure. 03:02:33

6 A. So to me it says "and another one after  
7 their second Sundar meeting in which they decided  
8 to go with it."

9 I don't know if this "in which" refers to  
10 another one after the Sundar meeting or to some 03:02:56  
11 Sundar meeting. I can't tell.

12 Q. I'm sorry, I don't understand what you're  
13 saying.

14 A. Happy to explain.

15 So it says here, "One meeting was after 03:03:09  
16 their first Sundar meeting in which he brought up  
17 the idea to call Allo's privacy feature Incognito  
18 mode, and another one after their Sundar meeting  
19 in which they decided to go with it."

20 I don't know if this "in which" refers to 03:03:34  
21 and another one after their Sundar meeting or if  
22 it refers to the Sundar meeting.

23 Q. I see. You're not sure whether the  
24 decision to go with calling Allo's privacy feature  
25 Incognito Mode, whether that decision was made at 03:03:52

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1 the second Sundar meeting or sometime after the  
2 second Sundar meeting; is that what you're saying?

3 A. Yeah, I don't know. I wasn't part of any  
4 of those discussions, neither --

5 Q. Sure. 03:04:04

6 A. -- meeting.

7 Q. No, I know, but I'm --

8 A. I wouldn't be able to tell.

9 Q. -- this is -- I'm just trying to  
10 understand what your own e-mail says. So I think 03:04:11  
11 I understand the distinction you're making.

12 Is it fair to say that the statement in  
13 your e-mail, at least what we do know is sometime  
14 after -- at least sometime after the second  
15 meeting with Sundar Pichai, the decision was made 03:04:27  
16 to call Allo's privacy feature Incognito Mode?

17 MS. CRAWFORD: Objection insofar as it  
18 assumes facts.

19 THE WITNESS: I cannot state that for a  
20 fact because again, I said it several times, 03:04:38  
21 I wasn't part of any of those myself. I'm  
22 very clearly passing on information I  
23 received secondhand from someone.

24 So I wouldn't be able to tell for sure  
25 when -- when what decision has been made. 03:04:52

1 BY MR. LEE:

2 Q. Right. I'm just asking what your e-mail  
3 means now.

4 So based on what you wrote -- hold on --  
5 based on what you wrote, either the decision -- 03:05:01  
6 strike that.

7 Based on what you wrote, the decision to  
8 call Allo's privacy feature Incognito Mode was  
9 made either at the second Sundar meeting or  
10 sometime after that; right? 03:05:16

11 MS. CRAWFORD: Assumes facts.

12 You can answer.

13 THE WITNESS: That's what is in this  
14 e-mail. I'm saying, I'm clearly passing on  
15 information secondhand. 03:05:25

16 BY MR. LEE:

17 Q. Okay.

18 A. I wasn't in those meetings, so I cannot  
19 verify whether the information I was passing by  
20 from someone else from a different team, different 03:05:33  
21 people, is true, is not true. I have no idea. I  
22 cannot comment on that.

23 Q. Right. All we have is what you wrote;  
24 right?

25 MS. CRAWFORD: Objection. 03:05:44

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1 THE WITNESS: All I have is what we are  
2 looking at, what I, again, very clearly  
3 passed by from a different team.

4 Looking at the first sentence, it seems  
5 that I was not even part of the Chrome 03:05:55  
6 discussions.

7 BY MR. LEE:

8 Q. Okay. Now, in the italicized part of  
9 your e-mail just below, at the end of the first  
10 paragraph, it states, "We did share our concerns 03:06:02  
11 with them in-depth, and also all our user research  
12 we've done over the past two years."

13 Do you see that?

14 A. Yes, I do.

15 Q. Okay. And the concerns you reference 03:06:17  
16 here were over the existing user misconceptions  
17 regarding Incognito Mode in the Chrome browser;  
18 right?

19 A. I don't think so. I don't know what they  
20 exactly refer to. Could have -- 03:06:31

21 Q. Okay.

22 A. -- been also about --

23 MS. CRAWFORD: Wait a second, James.

24 THE WITNESS: Could have been also about  
25 Allo in particular and their implementation. 03:06:37

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1 BY MR. LEE:

2 Q. Okay. Let's go a little further down the  
3 e-mail chain to Chris Palmer's June 21, 2016,  
4 e-mail. So this is the same e-mail chain; right?

5 A. Let me just scroll -- 03:06:55

6 MR. LEE: I think you passed it, Augusto.  
7 There you go.

8 BY MR. LEE:

9 Q. Just let me know when you're with us,  
10 Mrs. Borsay. 03:07:16

11 A. I think I'm with you on the same section,  
12 yeah.

13 Q. So this is an e-mail in the same e-mail  
14 chain that happened before the first e-mail that  
15 we looked at; right? 03:07:25

16 MS. CRAWFORD: Objection to the form.

17 You can answer.

18 THE WITNESS: It seems to me that might  
19 be the same e-mail thread, but I think I  
20 would need to look at the details to know for 03:07:39  
21 certain.

22 BY MR. LEE:

23 Q. Okay. Well, that's good enough for me.

24 Do you see he states in the third  
25 paragraph of the e-mail, "Even Eric Schmidt 03:07:53

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1       couldn't even keep the core meaning of Incognito  
2       straight when it only meant one thing"?

3               Did I read that right?

4               A.   Yeah, you read it correctly, Chris's  
5       e-mail. 03:08:06

6               Q.   Eric Schmidt is the former CEO of Google  
7       and the executive chairman; right?

8               A.   I don't know what his exact title was at  
9       the time.

10              MS. CRAWFORD:   I'm also just going to 03:08:19  
11       make it clear for the record it's not  
12       entirely clear to me based on what you've  
13       published through screen share whether this  
14       is actually a comment from Chris Palmer or  
15       not.   So I just want to make that entirely 03:08:32  
16       clear.

17              MR. LEE:   Okay.   I a hundred percent --

18              MS. CRAWFORD:   Some of this looks to be  
19       inline comments.   So I'm not entirely sure  
20       the attribution is correct.   For the record. 03:08:42

21              MR. LEE:   Okay.   Right.   The words say  
22       what they say.   So we'll just have to get to  
23       that.

24       BY MR. LEE:

25              Q.   What were some of Eric Schmidt's titles 03:08:49

1 at Google or Alphabet?

2 A. I do not know what his titles were  
3 exactly.

4 Q. It doesn't sound right that he's the  
5 former CEO? 03:08:58

6 MS. CRAWFORD: Objection insofar as that  
7 misstates the witness's testimony and is  
8 argumentative.

9 THE WITNESS: Actually, not that I was  
10 aware of, no. 03:09:12

11 BY MR. LEE:

12 Q. Okay. And it doesn't sound familiar to  
13 you that he might have been the executive chairman  
14 at some point of the company?

15 A. That's -- potentially, it could be, yeah. 03:09:19  
16 I don't know what his title was.

17 Q. Do you agree that he was at the highest  
18 of executive levels at Google?

19 MS. CRAWFORD: Objection to the  
20 characterization. 03:09:31

21 You can answer.

22 THE WITNESS: Also, I don't know the  
23 exact order of -- of the -- what you said,  
24 highest order. It's hard for me --

25 ///

1 BY MR. LEE:

2 Q. Was he -- sorry.

3 A. -- to comment that.

4 Q. Was he above you in the pecking order at

5 Google? 03:09:51

6 A. Yes.

7 Q. Okay. Do you see in the last paragraph

8 of this e-mail Mr. Palmer suggests Google "rebrand

9 Incognito Chrome, which has always been an

10 over-reaching name"? 03:10:13

11 A. Sorry, I don't see it yet. Where is it?

12 Q. It's in the last paragraph that e-mail we

13 were looking at, the one in parentheses. So the

14 June 21st e-mail of Chris Palmer, if you look at

15 the last sentence of his -- of that e-mail. 03:10:35

16 A. Yeah. I also, though, see some

17 indenting. So I don't know from this, when I

18 look, from this document, who wrote what here

19 exactly. But I see the last sentence in that --

20 Q. Okay. And it -- 03:10:55

21 A. -- line, that section.

22 Q. It says, "And/or use this as a chance to

23 rebrand Incognito in Chrome, which has always been

24 an over-reaching name."

25 That's what it says, right? 03:11:09

1 A. That's what this e-mail says, yeah.

2 Q. Now, ultimately, despite concerns that  
3 were raised within Google over expanding the  
4 Incognito brand to Allo, the decision was made to  
5 do just that; right? 03:11:19

6 MS. CRAWFORD: Objection. Foundation.  
7 Assumes facts.

8 You can answer.

9 THE WITNESS: I'm sorry, could you please  
10 repeat the question. 03:11:28

11 BY MR. LEE:

12 Q. Right. So despite the concerns that were  
13 raised over expanding the Incognito brand to Allo,  
14 ultimately, the Allo privacy feature was called  
15 Incognito Mode; right? 03:11:41

16 MS. CRAWFORD: Objection. Foundation.  
17 Assumes facts.

18 You can answer.

19 THE WITNESS: So I wouldn't know what the  
20 nature of the concerns were that were shared. 03:11:49  
21 And you stated that the concerns about naming  
22 the feature, I'm not sure if that's -- that's  
23 true or not.

24 BY MR. LEE:

25 Q. Okay. My question is a little different. 03:12:02

1 My question was: Allo ultimately used  
2 the Incognito name for its privacy feature;  
3 correct?

4 MS. CRAWFORD: Objection. Assumes facts.

5 You can answer. 03:12:20

6 THE WITNESS: If I recall correctly, I  
7 believe so, yes.

8 BY MR. LEE:

9 Q. Okay. Let's go back up to the top of the  
10 e-mail, your e-mail, the same document. And I 03:12:26  
11 want to talk about who made this decision.

12 Can you read for the jury the last  
13 sentence in the first italicized paragraph of your  
14 e-mail?

15 MS. CRAWFORD: Objection. Again assumes 03:12:46  
16 facts.

17 THE WITNESS: What part should I read?

18 BY MR. LEE:

19 Q. The last sentence in the first italicized  
20 paragraph of your e-mail beginning with "It was." 03:12:55

21 A. The last sentence? Okay. It says here,  
22 "It was a Sundar-level decision."

23 Q. So it was Sundar Pichai who decided to  
24 expand the Incognito brand?

25 MS. CRAWFORD: Objection. 03:13:22

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1 Mischaracterizes both the document and the  
2 witness's testimony.

3 THE WITNESS: I do not know.

4 BY MR. LEE:

5 Q. Okay. Well, you wrote it was a 03:13:29  
6 Sundar-level decision. So who is the Sundar in  
7 that statement?

8 A. So Sundar-level decision didn't talk  
9 about who decided. It says, "It was a  
10 Sundar-level decision." 03:13:45

11 And also, again, I wasn't part of any of  
12 those meetings. So again, it seems like  
13 information that was given to me secondhand.

14 Q. Okay. And Sundar Pichai is the CEO of  
15 Google; right? 03:13:59

16 A. Yes.

17 Q. Okay. Is there anyone at his level  
18 within the company, at the CEO level, or is he the  
19 only one?

20 MS. CRAWFORD: Objection to the form of 03:14:09  
21 the question.

22 You can answer.

23 THE WITNESS: Again, I don't know for  
24 certain, but I recall that Susan might be  
25 also called CEO of YouTube, for example. 03:14:21

1 BY MR. LEE:

2 Q. Who is the CEO of Google?

3 MS. CRAWFORD: Asked and answered.

4 You can repeat your response.

5 THE WITNESS: Yeah, I just said that 03:14:33  
6 before, Sundar Pichai.

7 BY MR. LEE:

8 Q. Okay. Is there any other CEO of Google  
9 other than Sundar Pichai?

10 A. Not that I'm aware of. 03:14:41

11 Q. So are you saying, when you write "It was  
12 a Sundar-level decision," that the decision was  
13 made by someone not named Sundar?

14 A. It's possible. It says it was a  
15 Sundar-level decision. 03:14:56

16 Q. Right. So who else could have made that  
17 decision other than Sundar?

18 MS. CRAWFORD: Objection insofar as it  
19 calls for speculation.

20 But you can answer. 03:15:08

21 THE WITNESS: Whoever was part of that  
22 meeting or decision-making, I would need to  
23 speculate. I was not part of it.

24 BY MR. LEE:

25 Q. Okay. All the information you have is 03:15:18

1 that it was a Sundar-level decision; is that fair?

2 A. Correct.

3 MR. LEE: Okay. Let's mark the next

4 exhibit. That will be Exhibit 7 for

5 identification purposes. It's

03:15:32

6 GOOG-CABR-04971904.

7 MR. CIVIDINI: Introduced.

8 (Exhibit 7 was received and marked

9 for identification on this date and is

10 attached hereto.)

03:15:52

11 BY MR. LEE:

12 Q. Exhibit 7 is a document produced by

13 Google. If you look at the bottom -- let's start

14 at the bottom of the page.

15 A. Which page?

03:16:04

16 Q. The first page, I'm sorry. The first

17 page. And you'll see at the bottom there it's an

18 e-mail from you --

19 A. Just a second. I need a minute to look

20 at the document --

03:16:15

21 Q. Sure.

22 A. -- in order to be able to even vaguely

23 understand the context.

24 So from Chris Palmer, to no property

25 found and then a few people on cc that I'm not

03:16:30

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1 part of. That's what --

2 Q. Are you reading the document, or are you  
3 testifying now?

4 A. No, I'm reading out loudly what I'm  
5 seeing. I'm trying to -- 03:16:38

6 Q. Why don't you read it to yourself, and  
7 then I'll ask you a question, okay? There's no  
8 question pending.

9 MS. CRAWFORD: Wait a second, James. You  
10 asked her to look at the exhibit, and that's 03:16:45  
11 what she's doing. Just give her a second to  
12 familiarize herself --

13 MR. LEE: Absolutely. I am directing her  
14 to read to herself.

15 MS. CRAWFORD: Okay. 03:17:00

16 THE WITNESS: Okay.

17 BY MR. LEE:

18 Q. So let's start at the bottom of the first  
19 page. That's an e-mail from you, written on  
20 May 18, 2016, in this chain; right? 03:19:28

21 A. I don't know what you mean, this e-mail,  
22 but it seems that I wrote something, yes.

23 Q. Okay. And the something you wrote is an  
24 e-mail; right?

25 A. Yep. 03:19:37

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1 Q. Okay. And in the e-mail you are  
2 discussing Allo; right? And -- and -- strike  
3 that.

4 In this e-mail, you're discussing Allo  
5 and whether to call its privacy feature Incognito; 03:19:54  
6 right?

7 A. I'm saying -- let me see my sentence.

8 "The reasoning is basically to elevate  
9 Incognito brand to a more Google-wide brand that  
10 offers privacy features within a given product, 03:20:14  
11 following the product's specific circumstances and  
12 limitations."

13 That's what I wrote.

14 Q. Yeah. Yeah, I'm just saying the context  
15 in which you are writing is the discussion about 03:20:24  
16 whether to expand Incognito Mode into Allo; right?

17 A. Let me see.

18 Q. I thought you just read the whole e-mail.

19 MS. CRAWFORD: Objection. Argumentative,  
20 James. 03:20:36

21 THE WITNESS: I didn't read the whole  
22 e-mail. I looked at it. I scanned it.

23 In the subject line, it doesn't talk  
24 about Allo, but -- and it talks about  
25 end-to-end encryption, and then in -- I 03:20:54

1           see -- scanning it, I see one mention of  
2           the -- of Allo here, but the rest of the  
3           e-mail doesn't seem to be about it.

4           I actually just don't know.

5           BY MR. LEE: 03:21:11

6           Q. Okay. So we know that the e-mail chain  
7           references Allo as well as Incognito; right? Are  
8           you with me?

9           A. Uh-hum.

10          Q. Yes? 03:21:20

11          A. So the question was whether the e-mail  
12          chain mentions the term "Allo" and the term  
13          "Incognito Mode"?

14          Q. Yeah.

15          A. Yeah. Correct. 03:21:27

16          Q. Okay. And this is an e-mail that you  
17          participated in as part of your work with Google;  
18          right?

19          MS. CRAWFORD: Objection to the form of  
20          the question. 03:21:35

21          THE WITNESS: Yes, it's my work e-mail  
22          that I'm seeing here.

23          BY MR. LEE:

24          Q. And the subject matter that is being  
25          discussed is all related to -- to work at Google; 03:21:44

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1 correct?

2 MS. CRAWFORD: Objection. Vague and  
3 overbroad.

4 THE WITNESS: I cannot comment for the  
5 majority of this e-mail thread because it's 03:21:57  
6 not from me. So I don't know what --

7 BY MR. LEE:

8 Q. I'm talking about the substance of the  
9 e-mail, ma'am. Right? So the words that are  
10 written by everyone on this e-mail is about -- is 03:22:05  
11 about work that's related to Google; right?

12 MS. CRAWFORD: Objection insofar as it  
13 calls for speculation. Lack of foundation.

14 THE WITNESS: Scanning it, I see Edward  
15 Snowden there. I'm not aware that he ever 03:22:20  
16 worked at Google. So I cannot answer your  
17 question without having read most of this  
18 e-mail.

19 BY MR. LEE:

20 Q. Okay. Now let's -- let's actually go to 03:22:29  
21 the Edward Snowden e-mail. So that's -- that's an  
22 e-mail from -- at the top. That's from Chris  
23 Palmer.

24 Do you see that?

25 A. Yes. 03:22:38

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1 MR. LEE: The very top, Augusto. Okay.

2 BY MR. LEE:

3 Q. And that e-mail is dated May 19, 2016;  
4 right?

5 A. Yes. 03:22:47

6 Q. Okay. And Mr. Palmer writes, "This is  
7 going to exacerbate the confusion, which is  
8 already bad."

9 Do you see that?

10 A. I do see that. 03:23:02

11 Q. And so that we're clear about what he's  
12 talking about, the subject line of the e-mail is  
13 "Google 'Incognito' Precision"; right?

14 A. That's the subject line.

15 Q. Okay. Further down in his e-mail, 03:23:19  
16 Mr. Palmer writes, "This is a problem of  
17 professional ethics and basic honesty."

18 Do you see that?

19 A. No, I don't see it yet. Let me --

20 Q. Okay. 03:23:26

21 A. -- take a look.

22 What does it start with again so I can  
23 find the sentence you are referring to?

24 Q. Hold on, let me find it myself. There it  
25 is. 03:23:39

1           It's towards the bottom. It's the  
2       paragraph that starts with "This" is just -- "This  
3       isn't just marketing."

4           Are you there with me?

5           A. Yeah. 03:23:58

6           Q. Why don't you just read this whole  
7       paragraph, "This isn't just marketing."

8           A. Okay. Sure.

9           "This isn't just" -- so from Chris;  
10       right? Okay. So -- 03:24:07

11          Q. Yeah.

12          A. -- "This isn't just marketing, it isn't  
13       just a word, this isn't OK. This is a problem of  
14       professional ethics and basic honesty, and if we  
15       want to call ourselves security engineers and 03:24:20  
16       privacy engineers, we need to fix it."

17          Q. Okay. And then what does the -- what  
18       does the last thing say? Can you read the last  
19       paragraph in his e-mail, the "We need to raise."

20          A. Okay. So he says, "We need to raise this 03:24:37  
21       to Darin and Rahul, and to try to get Sundar to  
22       reconsider. I'm extremely disappointed in the  
23       privacy team."

24          Q. Were you aware that there were employees  
25       within Google that wanted Mr. Pichai to reconsider 03:24:58

1 his decision to extend Incognito branding to other  
2 products or services like Allo?

3 MS. CRAWFORD: Objection. Lack of  
4 foundation. Misstates the witness -- sorry,  
5 misstates this document. 03:25:15

6 THE WITNESS: So it seems that one  
7 employee talks about someone else. Again,  
8 I'm wondering what I'm here in this equation.

9 I was not aware of it, and reading it  
10 here now... 03:25:30

11 BY MR. LEE:

12 Q. Were -- were you finished?

13 A. Not -- I didn't read the end, but I read  
14 what you just asked me to read. Should I read  
15 something else? 03:25:46

16 Q. Right. I'm just asking if you were  
17 independently aware that there were employees  
18 within Google that wanted Mr. Pichai to reconsider  
19 his decision to extend the Incognito brand to  
20 other products or services like Allo. 03:25:54

21 MS. CRAWFORD: Lack of foundation.  
22 Assumes facts.

23 You can answer.

24 THE WITNESS: I wasn't aware. Looking at  
25 the e-mail, it says it here, but I don't 03:26:07

1 remember having been aware of it. Possible  
2 that I didn't read it. Don't read all my  
3 many e-mails in all detail.

4 MS. CRAWFORD: Hold on. Let me just make  
5 sure that the record is clear. 03:26:20

6 James, are you representing that  
7 Mrs. Borsay received this top-level e-mail  
8 from Chris Palmer? Because I don't see --

9 MR. LEE: I have no idea. You can't --

10 THE WITNESS: He asked about awareness. 03:26:27

11 MR. LEE: You can't tell from the  
12 document, the face of the document.

13 MS. CRAWFORD: Okay. Got it. Okay.  
14 Okay.

15 MR. LEE: One way or the other. 03:26:34

16 MS. CRAWFORD: Okay.

17 BY MR. LEE:

18 Q. Mrs. Borsay, were you part of the privacy  
19 team?

20 A. That's -- 03:26:42

21 MS. CRAWFORD: Objection. Vague and  
22 overbroad.

23 You can answer.

24 THE WITNESS: What are you referring to  
25 with "the privacy team"? 03:26:47



1 BY MR. LEE:

2 Q. Well, let's look at the e-mail just below  
3 the Chris Palmer e-mail that you wrote that says  
4 "Sabine Borsay," "May 18, 2016."

5 And you say, "+ privacy folks fyi." 03:27:03  
6 Which means you're adding the privacy team to the  
7 e-mail; right?

8 MS. CRAWFORD: Objection insofar as it  
9 mischaracterizes the document.

10 You can answer. 03:27:12

11 THE WITNESS: Wait a second. So looking  
12 at the e-mail, so it seems that to -- the  
13 e-mail thread from below, I seem to have  
14 added the "privacy folks fyi."

15 But since you just mentioned Chris 03:27:35  
16 Palmer's e-mail. So what we looked at before  
17 where Chris Palmer talks about Chrome and the  
18 things I were asked to read out from Chris  
19 Palmer's e-mail.

20 Again, the cc list, but the people who 03:27:46  
21 are listed there doesn't include me, and I  
22 don't recall having read that ever.

23 BY MR. LEE:

24 Q. My question is different.

25 My question is: Who is the privacy team 03:27:56

1 that you added to the e-mail?

2 A. That I added?

3 Q. Yeah.

4 A. Also, I don't know exactly who I added in

5 2016. I imagine it might have been the Chrome 03:28:11

6 Privacy team, but that's also me speculating now

7 many years later.

8 Q. Okay.

9 A. But that's something I can imagine --

10 Q. So at some point -- 03:28:19

11 A. -- who I added. I cannot talk to who

12 Chris talked about in the e-mail which I didn't

13 seem to have ever received myself.

14 Q. Okay. Let's go to the top of that

15 e-mail. 03:28:30

16 A. Sure.

17 Q. All the way to the top, the to/froms.

18 So the -- the "To" line says

19 "Not\_To\_Property\_Found" [sic].

20 Do you know who that is? 03:28:46

21 A. No.

22 Q. And sitting here today, you don't know

23 who is included in that?

24 MS. CRAWFORD: Objection. Asked and

25 answered. 03:28:53

1 THE WITNESS: I don't know.

2 BY MR. LEE:

3 Q. And the subject line is a "Re" line;  
4 right? It's not a forward; right?

5 A. It's "a Re line," you are saying? 03:28:58

6 Q. R-e, instead of a forward?

7 A. Yes. Seems like it.

8 Q. Okay. Let's look at the next document.

9 A. But it's also -- by the way, it's very  
10 common that you respond to something but don't 03:29:15  
11 have the exact same set of recipients there,  
12 right.

13 Q. Since 2016 -- you can take this down. We  
14 are going to do the next one.

15 A. Okay. 03:29:29

16 Q. Since 2016, Google also expanded the  
17 Incognito name across additional Google products.  
18 Are you aware of that?

19 A. Can you repeat your question, please.

20 Q. Since 2016, Google also expanded the 03:29:40  
21 Incognito name to additional Google products. Are  
22 you aware of that?

23 MS. CRAWFORD: Objection. Foundation.

24 You can answer.

25 THE WITNESS: Google expanded is a bit 03:29:54

difficult to answer again, but I am aware that additional products besides Chrome's Incognito Mode are called also Incognito or have some Incognito feature.

5 (Exhibit 8 was received and marked 03:30:13  
6 for identification on this date and is  
7 attached hereto.)

8 BY MR. LEE:

9 Q. Okay, good. So let's look at Exhibit 8.

10	A. Okay.	03:30:15
----	----------	----------

11 Q. This is -- for identification purposes,  
12 it's GOOG-BRWN-00275959.

13               And just let me know when you have --  
14     have the document because I -- before we talk  
15     about the substance, I want to -- I want to show               03:30:34  
16     you the last page first.

17           A. I have the document open, but I didn't  
18    read it yet.

19 Q. Okay. Why don't you turn to the last  
20 page first. 03:30:45

21	A. Okay.
----	----------

22 Q. Again, this is the metadata provided by  
23 Google in producing this document. Okay?

24	A. Okay.
----	----------

25	Q. And trust me, if it wasn't, your lawyer	03:30:54
----	--	----------

1 would say so.

2 Do you see in the field titled

3 "AllCustodians" your name is listed?

4 A. I do see that.

5 Q. Okay. And if this document was found in 03:31:06  
6 your files, you would have received this as part  
7 of your work at Google; right?

8 MS. CRAWFORD: Objection to the  
9 hypothetical.

10 THE WITNESS: So again, I do not know 03:31:20  
11 what custodians means in this context. What  
12 I'm seeing is that this seems to be an e-mail  
13 sent to Google, Google@google.com, which  
14 might be one of the e-mail addresses that  
15 Googlers are receiving and then -- yeah, 03:31:37  
16 that's what I'm seeing.

17 BY MR. LEE:

18 Q. Right. Including yourself, right?

19 A. I'm a Google employee, so I assume that  
20 I'm subscribed to Google@google.com. I don't know 03:31:50  
21 if that's one of those many, many e-mail lists  
22 that I'm auto filtering.

23 But I'm certainly Google employee. So if  
24 Google@google.com includes all Google employees,  
25 which I assume, then I'm able to receive it, yes. 03:32:06

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1 Q. Right. And you're also a custodian of  
2 this document; right?

3 A. I do not know what this means at all.  
4 But certainly if there's an e-mail sent to  
5 Google@google.com, I personally would not be 03:32:16  
6 called up specifically. These are e-mails to all  
7 employees.

8 Q. Okay. So if you received this as part of  
9 a distribution list of all employees, then you  
10 would have received this document in connection 03:32:36  
11 with your work at Google; right?

12 A. So it would go into my inbox somewhere,  
13 yeah. It could be that I filtered many, many of  
14 these auto subscribe mailing lists. It's possible  
15 that I didn't filter it. I just don't know. 03:32:49

16 Q. Okay. Well, let's see who wrote it.  
17 Let's go to the top. It's from the CEO of the  
18 company, Sundar Pichai.

19 So do you think you would have filtered  
20 that one or you would have read it? 03:33:02

21 MS. CRAWFORD: Objection. Hypothetical.  
22 Calls for speculation.

23 THE WITNESS: So the filters are about  
24 the mailing list. So I either have  
25 Google@google.com filtered or I do not. 03:33:15

1 BY MR. LEE:

2 Q. Do you or don't you? I didn't hear that.

3 A. But also -- what, sorry?

4 Q. I didn't -- I didn't catch what you said.

5 Did you say you do have it filtered or you don't 03:33:21  
6 have it filtered or you don't know?

7 A. I -- I do not know. There are so many --

8 Q. Okay.

9 A. -- auto mailing lists, like all of Munich  
10 Google employees, all PMs at Google, all women 03:33:28  
11 PMs. There are maybe hundreds, I don't know, and  
12 I do not know by heart which of them I might have  
13 auto filtered or not.

14 But independent of the filter, also even  
15 e-mails that I don't filter, doesn't mean that I 03:33:44  
16 read all of them.

17 But I'm happy to look at it now, so no  
18 concerns.

19 Q. Sure.

20 A. But just stating that there are many, 03:33:53  
21 many e-mails who I never open and just archive.

22 Q. Okay. So Exhibit 8 is a 2019 e-mail from  
23 Mr. Pichai to Google employees; correct?

24 A. I would also need to speculate if  
25 Google@google.com is really all employees. I 03:34:11

1 wouldn't be able to tell. But that's what I would  
2 assume.

3 Q. Okay. And in the first bullet, last  
4 sentence, do you see where Mr. Pichai wrote, "And  
5 we'll work with tighter focus and coordination 03:34:27  
6 across Google so we can launch new privacy  
7 features -- such as incognito modes -- across  
8 major Google products"?

9 A. I see that. But I would love to take a  
10 very quick look at the e-mail so that I see what 03:34:40  
11 the context is.

12 Q. I'm just asking if I read it correctly.

13 A. You would need to read it again.

14 Q. Sure.

15 A. Because I didn't look at that exact 03:34:53  
16 sentence. I tried to familiarize myself with the  
17 document.

18 Q. He writes here, "We'll make privacy  
19 choices simpler to understand. And we'll work  
20 with tighter focus and coordination across Google 03:35:04  
21 so we can launch new privacy features -- such as  
22 incognito modes -- across major Google products."

23 Did I read that right?

24 A. Yeah, you read that right.

25 Q. If you know, was it Mr. Pichai's decision 03:35:18



1 to have Incognito modes across other Google  
2 products?

3 MS. CRAWFORD: Objection. Foundation.  
4 Calls for speculation.

5 You can answer. 03:35:34

6 THE WITNESS: I am not aware of that.  
7 And again, I would be very surprised.

8 Typically the name of the feature lies within  
9 the product team.

10 BY MR. LEE: 03:35:47

11 Q. Okay. And do you know why Mr. Pichai  
12 signed off on having Incognito modes across  
13 different Google products?

14 MS. CRAWFORD: Objection insofar as it  
15 misstates the document. Lack of foundation. 03:36:02

16 THE WITNESS: I don't know what you're  
17 referring to with having signed off.

18 BY MR. LEE:

19 Q. Okay.

20 A. I don't see anything about it here. 03:36:08

21 Q. No, I'm asking if you have any of your  
22 own knowledge.

23 A. No, I don't.

24 MR. LEE: Okay. Let's look at the next  
25 exhibit. This one is going to be marked 03:36:15

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1 Exhibit 9, GOOG-BRWN-00047341.

2 MR. CIVIDINI: Introduced.

3 (Exhibit 9 was received and marked

4 for identification on this date and is

5 attached hereto.)

03:36:44

6 MS. CRAWFORD: And while you're loading,

7 can we have a time check, please.

8 THE VIDEOGRAPHER: I believe we're at two

9 hours and seven minutes.

10 MS. CRAWFORD: Did you say two hours and

03:37:03

11 seven minutes?

12 THE VIDEOGRAPHER: I believe so, yes.

13 MS. CRAWFORD: Thank you.

14 MR. LEE: Can you let me know when I have

15 15 minutes left?

03:37:11

16 THE VIDEOGRAPHER: Sure.

17 MR. LEE: Thanks.

18 BY MR. LEE:

19 Q. Exhibit 9 is a 2019 document that Google

20 produced. I want you to go to the page ending in

03:37:17

21 343. And you'll see Augusto has it lined up for

22 you?

23 A. Yeah, one second. I'm taking a quick

24 look at the document to see what it's about.

25 Q. Of course.

03:37:37

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1           You ready to go, Mrs. Borsay?

2           A. I'm half through looking at it. Give me  
3 another minute. I can try to scan a bit faster,  
4 but it's also, of course, more -- but that's  
5 all... 03:41:03

6           Q. Well, if you're halfway through, I'm not  
7 going to go past that in the documents. Meaning  
8 I'm only asking about the first half of the  
9 document.

10          A. Okay. I haven't seen the slide that you 03:41:20  
11 have opened here, so let me just see.

12          Q. Sure. And I'll represent to you this  
13 document was produced from your files. Okay?

14          A. Whatever that means, but yeah.

15          Q. So do you have the slide that Augusto has 03:41:37  
16 in front of you?

17          A. No. I didn't see it halfway through yet.  
18 So let me see.

19               MR. CIVIDINI: Page 3.

20          BY MR. LEE: 03:41:52

21          Q. Page 3, I think he said.

22          A. Okay. So where -- what's the number of  
23 the slide that you have open?

24          Q. It's page 3 of the presentation. And he  
25 also has it up on his share screen for you. 03:42:10

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1 A. Let me see. Okay. There it is.

2 Q. Okay. Now, do you see the second bullet?

3 It says, "Sin Rastro's mandate is to make the

4 Incognito experience across Google products

5 coherent and simpler to understand."

03:42:32

6 Do you see that?

7 A. I see, that yeah.

8 Q. Do you see where it says, "For users"?

9 A. Yes.

10 Q. Okay. And that second sentence under

03:42:49

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]"

03:43:08

16 Do you see that?

17 A. So I see [REDACTED]

18 [REDACTED]

19 [REDACTED] [REDACTED]

20 [REDACTED]" -- okay, that's where you then

03:43:21

21 read, I guess.

22 Q. Okay. So let me just -- I'll read it

23 again quickly, and you can tell me if I've read it

24 correctly, okay?

25 [REDACTED]

03:43:34

CONFIDENTIAL ATTORNEYS' EYES ONLY

1

[REDACTED]

2

[REDACTED]

3

[REDACTED]"

4

Did I read that right?

5

A. You read it correctly.

03:43:51

6

Q. In reality, Google collects users' data

7

while they are browsing in Chrome; right?

8

MS. CRAWFORD: Objection. Argumentative.

9

Lack of foundation. Assumes fact. Vague and

10

ambiguous as well.

03:44:03

11

You can answer.

12

THE WITNESS: I said earlier that I do

13

not know what data or information Google may

14

or may not collect.

15

And also, like I said, so what I read

03:44:11

16

here, it says, "[REDACTED]

17

[REDACTED]."

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

03:44:33

21

[REDACTED].

22

BY MR. LEE:

23

Q. Is it your testimony -- is it your

24

testimony, ma'am, that Google does not collect

25

users' data when they are in Incognito Mode when

03:44:46

1 they browse in Chrome?

2 MS. CRAWFORD: Objection. First off,  
3 that misstates the witness's testimony --

4 MR. LEE: No, I'm --

5 MS. CRAWFORD: -- and it's been -- 03:44:55

6 MR. LEE: It's a follow-up question. I'm  
7 not characterizing her testimony. I'm asking  
8 if that is her testimony.

9 THE WITNESS: I have never said that.

10 BY MR. LEE: 03:45:05

11 Q. So let me ask you again, and then you can  
12 answer the question.

13 Is it your sworn testimony that Google  
14 does not collect users' data when they are in  
15 Incognito Mode while browsing in Chrome? 03:45:15

16 MS. CRAWFORD: Asked and answered.

17 Foundation. Assumes facts. Calls for a  
18 conclusion.

19 You can answer.

20 THE WITNESS: My statement is and was 03:45:25  
21 repeatedly that I do not know what data  
22 Google may or may not receive in -- while  
23 users are in Incognito Mode.

24 BY MR. LEE:

25 Q. But you are not telling us that Google 03:45:41

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1 doesn't collect any personal information or  
2 information from the user while they are in  
3 Incognito Mode; right?

4 MS. CRAWFORD: Objection. Argumentative.

5 Also calls for a legal conclusion. Assumes 03:45:49  
6 facts.

7 You can answer.

8 THE WITNESS: I'm telling you, and I have  
9 told you a few times now, that I do not know.

10 BY MR. LEE: 03:46:01

11 Q. Okay. Let's go to another slide. It's  
12 Bates number ending in 350.

13 A. 350.

14 Q. And the slide is called "Risks & impact  
15 on branding"; right? 03:46:27

16 A. It says "Current State | Risks & impact  
17 on branding." Yeah.

18 Q. Okay. In that first bullet it says, "Sin  
19 Rastro Incognito story: Google doesn't collect  
20 personal information while in private mode. No 03:46:45  
21 personalization. No personal logs."

22 Did I read that right?

23 A. You read that correctly.

24 Q. Okay. The next bullet, it says "Those  
25 guarantees aren't true in Chrome." 03:46:58

1 Did I read that correctly?

2 A. Yes.

3 Q. So according to this document, when a  
4 user enables Incognito Mode in Chrome, Google  
5 still collects personal information; right? 03:47:10

6 MS. CRAWFORD: Objection insofar as it  
7 mischaracterizes the document. Lack of  
8 foundation.

9 THE WITNESS: I would not make that  
10 conclusion from -- from this document, no. 03:47:20

11 BY MR. LEE:

12 Q. Okay. In the very next bullet, this  
13 document acknowledges that because those  
14 guarantees are not true in Chrome, this could lead  
15 to increased user confusion. 03:47:32

16 Do you see that?

17 A. I see that that's stated in this doc.

18 Q. Okay. You don't agree with the statement  
19 in this document?

20 MS. CRAWFORD: Mischaracterizes her 03:47:45  
21 response.

22 THE WITNESS: I don't even know what it  
23 refers to. So I don't have an opinion on  
24 that.

25 ///



1 BY MR. LEE:

2 Q. Well, it refers to Google doesn't collect  
3 personal information while in private mode. No  
4 personalization, no personal logs. But those  
5 guarantees aren't true in Chrome. That's what it 03:48:06  
6 refers to.

7 A. I don't know what Sin Rastro Incognito  
8 story is, if it's a vision, a state. I have no  
9 idea. I don't work on what Google -- yeah, on  
10 that part of Google, basically. I work on Chrome. 03:48:21

11 Q. Do you think this is a document you  
12 received and you just never read?

13 MS. CRAWFORD: Objection insofar as it  
14 calls for speculation. Lack of foundation.

15 You can answer. 03:48:31

16 THE WITNESS: I have neither talked about  
17 receiving nor not receiving this document nor  
18 about me having seen or read it or not.

19 I'm just saying that I'm -- I'm unclear  
20 what these words are referring to. It's 03:48:46  
21 unclear to me from this context looking at  
22 this slide.

23 BY MR. LEE:

24 Q. Have you ever heard of Sin Rastro?

25 A. Yes. 03:48:53

1 Q. What is Sin Rastro?

2 A. So my understanding of the project, that  
3 I wasn't part of that, is that one team at Google  
4 was working on Sin Rastro. And my understanding  
5 is that that effort, Sin Rastro, was looking into 03:49:14  
6 features, Incognito Mode features, across Google  
7 products.

8 Q. Okay. Let's go to the next document.  
9 It's Exhibit 10.

10 A. Sure. 03:49:31  
11 It's not in my folder yet, just to let  
12 you know.

13 Q. Yeah, he'll upload it in a moment.

14 For identification purposes, it's  
15 GOOG-CABR-04509467. 03:49:47

16 (Exhibit 10 was received and marked  
17 for identification on this date and is  
18 attached hereto.)

19 MR. CIVIDINI: It's uploaded now.

20 THE WITNESS: Not showing up yet. I will 03:49:57  
21 let you know once I'm able to open it.

22 Now it showed up. I'm going to open.

23 MS. CRAWFORD: And after this document,  
24 if we could take a five-minute break, I would  
25 appreciate it. 03:50:06

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1 MR. LEE: After this document, sure.

2 MS. CRAWFORD: Yeah, that was the  
3 request.

4 BY MR. LEE:

5 Q. Exhibit 10 is an e-mail chain you 03:50:22  
6 participated in as part of your work for Google;  
7 correct, Mrs. Borsay?

8 MS. CRAWFORD: Objection to the form of  
9 the question.

10 THE WITNESS: Let me take a look if I 03:50:32  
11 participated. It seems that I wrote  
12 something on that e-mail thread, yes.

13 BY MR. LEE:

14 Q. Okay. Go down to the bottom of the  
15 second page, please. I will want to focus you on 03:50:42  
16 an e-mail you wrote on July 6th, 2021, at 11 p.m.

17 A. Okay. But I would love to take a quick  
18 look at the document so to have a chance to  
19 understand the context of this e-mail thread.

20 Q. Okay. Go ahead. 03:51:02

21 A. Okay.

22 Q. So if you go to the second page at the  
23 bottom, you'll see a July 6, 2021, 11:00 p.m.  
24 e-mail that you wrote.

25 Do you see that? 03:53:11

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1 A. Yes.

2 Q. Okay. Do you see you make a reference to  
3 KR, Incognito Mode KRs?

4 A. Yes, I do.

5 Q. What is a KR? 03:53:21

6 A. So I'm referring to a key result here.

7 Q. And what does that mean?

8 A. So typically with our team, we are  
9 setting goals that we often call OKRs. And then  
10 KRs are part of that, and it stands for key 03:53:41  
11 results.

12 Q. Key resides?

13 A. Result. Result. Key result. I'm not  
14 sure if my pronunciation is wrong, but key result.  
15 Should I spell result? 03:53:59

16 MS. CRAWFORD: It's in the realtime. The  
17 transcript's correct.

18 BY MR. LEE:

19 Q. Okay. And you write here -- if you go to  
20 the third page of the document, the next page, 03:54:10  
21 it's still your e-mail. And if you look at the --  
22 the -- the -- under where it's bolded and it says  
23 "For reference, this is the OKR," do you see that?

24 A. Yes, I do.

25 Q. And then the second KR that you write 03:54:23

1 states, "Clear up misconceptions, launch revamped  
2 NTP with focus on education."

3 Do you see that?

4 A. Yes.

5 Q. And when you wrote this statement, that 03:54:36  
6 the KR is to clear up misconceptions and launch  
7 revamped NTP, you're referring to user  
8 misconceptions in Incognito Mode; right?

9 MS. CRAWFORD: Objection. Lack of  
10 foundation. 03:54:56

11 You can answer.

12 THE WITNESS: I copy-pasted the OKR  
13 objectives and key results here, that's what  
14 I did.

15 BY MR. LEE: 03:55:04

16 Q. Okay. And do you have any understanding  
17 of what "Clear up misconceptions, launch revamped  
18 NTP with focus on education" means, or did you  
19 just paste that in and you don't remember?

20 MS. CRAWFORD: Argumentative. 03:55:14

21 You can answer.

22 THE WITNESS: Again, I pasted this in  
23 here. I didn't write that myself here. But  
24 I could imagine what it -- what, yeah, it's  
25 referring to. 03:55:24

1 BY MR. LEE:

2 Q. And is it referring to user  
3 misconceptions about Incognito Mode?

4 A. What -- I can imagine that it might be  
5 referring to users' misconceptions in private 03:55:38  
6 browsing modes in general. Like, for example, the  
7 example I mentioned earlier that some users expect  
8 that they are invisible to the sites that they  
9 visit, even if they, for example, log in to them  
10 with LinkedIn. 03:55:55

11 Or also an example that I've heard  
12 anecdotally, that some people might even thought  
13 they are invisible if they then search for someone  
14 else's LinkedIn profile while in a browser's  
15 private browsing mode; that they expect that 03:56:09  
16 that's invisible.

17 So these are the type of misconceptions.

18 Q. NTP refers to Incognito new tab page;  
19 right?

20 A. So NTP itself refers to new tab page, but 03:56:21  
21 this seems to be in the context of Incognito,  
22 yeah.

23 Q. Right. So when you say "Clear up  
24 misconceptions, launch revamped NTP," you're  
25 referring to a revamped new tab page for Incognito 03:56:33

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1 Mode; correct?

2 MS. CRAWFORD: Mischaracterizes this  
3 document.

4 You can answer.

5 And the witness's testimony on it. 03:56:44

6 THE WITNESS: I wouldn't be able to say  
7 for certain, because, again, I didn't write  
8 those, but it's possible that it's about  
9 Incognito new tab page that launched.

10 BY MR. LEE: 03:57:04

11 Q. What other NTP did you work on other than  
12 Incognito Mode?

13 MS. CRAWFORD: Argumentative. Assumes  
14 facts.

15 THE WITNESS: So just to set it clear, 03:57:15  
16 because you say "you" worked on, like I  
17 mentioned earlier, I was the PM on Privacy  
18 and touched on Incognito before my first  
19 maternity leave.

20 So since 2018, I wasn't the PM for 03:57:27  
21 Incognito. It was Rory, was the name, at  
22 some point. And I was in the times when  
23 Rory, for example, was on leave, or there  
24 were also times -- maybe it was one of those  
25 times where their team didn't really have a 03:57:41

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1 PM assigned to it that I, also my manager,  
2 sometimes were acting as a point of contact  
3 to help the team.

4 So again, it's not me working on this.

5 It's me being a point of contact for the team 03:57:57  
6 and trying to help the team.

7 BY MR. LEE:

8 Q. I asked a different question.

9 I said, did you ever work on revamping a  
10 new tab page that wasn't for Incognito Mode? 03:58:04

11 A. No, I didn't.

12 Q. Okay. By the way, the new tab page is  
13 what pops up every time a user enables Incognito  
14 Mode in Chrome; right?

15 MS. CRAWFORD: Objection to the form of 03:58:20  
16 the question.

17 You can answer.

18 THE WITNESS: You said enabled, so I'm  
19 not sure what -- what you mean with that; but  
20 if a user opens Chrome's Incognito Mode, they 03:58:31  
21 should see the new tab page.

22 BY MR. LEE:

23 Q. So anytime they open Incognito Mode, they  
24 will see the new tab page; fair?

25 MS. CRAWFORD: Objection. Foundation. 03:58:42

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1 And potentially calls for speculation.

2 But you can answer.

3 THE WITNESS: Yeah, I'm not sure what you  
4 are referring to. For example, on a Mac, you  
5 can -- you can minimize a browser window so 03:58:54  
6 that it, yeah, minimizes; and then if you  
7 bring it up again, it typically just shows  
8 what you minimized before.

9 So if the user had the new tab page open  
10 in that case, yeah, they would see it again. 03:59:08  
11 And like I said, if a user would click on  
12 Open New Incognito Window, it would also show  
13 the new -- the new tab page.

14 BY MR. LEE:

15 Q. Okay. I think we are on the same page. 03:59:21

16 A. Or if they open a new tab in Incognito,  
17 it would also show the new tab page.

18 Q. All right. You agree with me that it's  
19 important that the new tab page accurately  
20 describe for users what Incognito Mode does and 03:59:30  
21 doesn't do; right?

22 MS. CRAWFORD: Objection to the form of  
23 the question.

24 You can answer.

25 THE WITNESS: Yes, that's what we are 03:59:40

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1 striving for, right.

2 MR. LEE: Let's look at Exhibit 11.

3 MS. CRAWFORD: No, if we can go off the  
4 record --

5 MR. LEE: Oh, I'm sorry, you're right. 03:59:49

6 MS. CRAWFORD: -- five-minute break?

7 MR. LEE: Don't upload it yet, if you  
8 can, Augusto. Let's upload it after the  
9 break.

10 MS. CRAWFORD: Yeah, and no worries, if 03:59:57  
11 it's been unloaded, we won't take a look at  
12 it until afterwards.

13 MR. LEE: Let's go off the record,  
14 please.

15 MS. CRAWFORD: Yeah. 04:00:06

16 THE VIDEOGRAPHER: Off the record at  
17 4:00 p.m.

18 (Short break taken.)

19 THE VIDEOGRAPHER: We are back on the  
20 record at 4:10 p.m. 04:10:13

21 (Exhibit 11 was received and marked  
22 for identification on this date and is  
23 attached hereto.)

24 BY MR. LEE:

25 Q. We have marked as Exhibit 11 a document 04:10:18

1 Google produced from your files with the  
2 production number GOOG-CABR-0476153.

3 Do you want to take a second to look at  
4 this document, Mrs. Borsay?

5 A. Yes. 04:10:36

6 Q. Okay.

7 A. But since I'm not even listed as one of  
8 the many people on that title slide, so I would  
9 like to look -- take a look at this deck to be  
10 able to know what the context is. 04:10:49

11 Q. Are you ready to go, Mrs. Borsay?

12 A. On which slide I am, is the question?

13 Q. Why don't we take you to the Bates  
14 number ending in 6236 -- well, actually, we can  
15 start at the first. I just want to reference the 04:14:13  
16 title. Do you see that the title is "Incognito  
17 NTP Revamp"?

18 A. Yes, I see that.

19 Q. And again, NTP is in reference to the  
20 Incognito new tab page; right? 04:14:26

21 A. I assume so, yes.

22 Q. And this is the Incognito new tab page  
23 revamp that was referenced in your July 2021  
24 e-mail that we just looked at and was marked  
25 Exhibit 10; right? 04:14:43

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1           A. So in that e-mail where I copy-pasted the  
2       team's OKRs, right, their goals, this one, which  
3       is open here, I assume that that might refer to  
4       this doc. But again, keep in mind, I'm not even  
5       listed as any of the team members on the title           04:14:56  
6       slide.

7           Q. Okay.

8           MR. LEE: All right. So let's go to the  
9       page ending in 170, Augusto.

10          THE WITNESS: Wow, is the slide deck 85           04:15:17  
11       slides long? So I really -- just to let you  
12       know already, I'll certainly miss context,  
13       because I would need to read through the  
14       whole.

15          But I'm okay to see what you will ask,           04:15:28  
16       what slide we will go on, and then I might  
17       have to look at the context.

18          Q. Okay. And in that case, since the slide  
19       is so long, I will insist on a break for you to do  
20       that. And you just let me know. So --           04:15:39

21          MS. CRAWFORD: Our position as stated  
22       before stands. We can take that up offline.

23          MR. LEE: Yeah. Well, okay.

24       BY MR. LEE:

25          Q. Okay. So this slide --           04:15:49

1 A. So which -- so can you tell --

2 Q. -- which ends in 17- -- excuse me?

3 A. Okay, 17? Yeah, so which slide should I  
4 browse to?

5 Q. It ends in 170. It's page, I believe, 18 04:15:55  
6 of 85.

7 A. 170. Okay.

8 I cannot read the content of the page on  
9 none of the screens. It's too small.

10 Q. So, yeah, I'm going to try and get to a 04:16:13  
11 better page. Unfortunately this is the way Google  
12 produced it to us.

13 This -- if you go to the top -- I'm  
14 sorry. If you look at the side, it says this is  
15 the "Proposal"; right? 04:16:29

16 Do you see that?

17 A. Wait a second, I don't see "This is the  
18 proposal," those words. I don't -- I see --

19 Q. No, the words -- the words "Proposal," do  
20 you see the words "Proposal" on the left? 04:16:37

21 A. Yeah, I see "[REDACTED]." Yeah.

22 Q. Okay. And to the right you see that  
23 there's [REDACTED];  
24 right?

25 A. It looks like it to me, yes. 04:16:47

1 Q. Okay. And now let's go to 172, where  
2 they describe the changes.

3 A. What changes are you talking about?  
4 Looks like a proposal, as we just said, so I'm not  
5 sure --

04:17:03

6 Q. Yeah, yeah, yeah. Exactly. So let's be  
7 clear. [REDACTED]

8 [REDACTED]

9 [REDACTED].

10 Do you see that?

04:17:15

11 A. I don't see that yet, if that's -- but  
12 I -- I'm happy to take a look at the slide.

13 Q. Sure. Are you -- just so we are all  
14 oriented, are you looking at what Augusto is  
15 sharing on the screen?

04:17:27

16 A. Yes, but it's really hard to read.

17 Q. Okay. Do you see where there's --  
18 there's -- it says "Current" for one section and  
19 "Proposed" below that?

20 So it's the [REDACTED]

04:17:38

21 [REDACTED]

22 [REDACTED]

23 A. I assume so. I see, yeah, "Current" with  
24 a screenshot --

25 Q. Okay.

04:17:49

1 A. -- [REDACTED]

2 [REDACTED] [REDACTED]

3 Q. [REDACTED] [REDACTED]

4 [REDACTED]

5 Do you see that? 04:17:59

6 A. Yes.

7 Q. Okay. If you look under -- well, if you  
8 can just look at the content of the [REDACTED]

9 [REDACTED]

10 [REDACTED] 04:18:12

11 [REDACTED]

12 Do you see that?

13 A. So the thing is, what I'm seeing is a  
14 snippet of something that looks like a new tab  
15 page. I don't know what it would be above it 04:18:30  
16 because even the "Current" one is just a snippet,  
17 right, it doesn't show me the Incognito icon.

18 Q. Yeah I'm just asking about what's on the  
19 document, ma'am. So according to this document,

20 [REDACTED] 04:18:44

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Do you see that based on this document?

25 A. No. 04:18:56

1 MS. CRAWFORD: Objection insofar as that  
2 misstates the document and assumes facts --

3 MR. LEE: Are you suggesting that I'm  
4 misstating the document, Jomaire?

5 MS. CRAWFORD: Yes. And assumes facts. 04:19:09

6 BY MR. LEE:

7 Q. Okay. Why don't you look --

8 A. Like I said, it's a snippet. Even the  
9 "Current" one is not the entire new tab page. It  
10 shows a snippet. 04:19:13

11 Q. Okay. Why don't --

12 A. And snippet for "Proposed." I don't know  
13 what's above and below. That's impossible for me  
14 to --

15 Q. I'm not asking what's -- I'm not asking 04:19:19  
16 you to guess what's above and below. I'm asking  
17 you to look at the document that's in front of  
18 you.

19 Based on the document --

20 A. I don't -- 04:19:27

21 Q. -- that's in front of you, in the

22 [REDACTED]

23 [REDACTED] right?

24 A. Again, I don't know what the "Proposed"  
25 language as a whole is. 04:19:38

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1 Q. Sure.

2 A. I'm just seeing a snippet, and I can't  
3 talk to the snippet I'm seeing here that someone  
4 else put in here.

5 Q. Okay. So it's not your testimony that 04:19:46  
6 you think -- well, is it your testimony that you  
7 think in the [REDACTED]

8 [REDACTED]

9 MS. CRAWFORD: Lack of foundation.

10 Argumentative. 04:20:01

11 THE WITNESS: I'm not even able to  
12 comment on it.

13 BY MR. LEE:

14 Q. Okay. Let's do it this way.

15 Do you do you see on the side where it 04:20:06  
16 says [REDACTED]

17 A. I see the word [REDACTED]  
18 there, yeah.

19 Q. Okay. And do you see under

20 [REDACTED] 04:20:13

21 [REDACTED]

22 A. So first of all, if you said it has been

23 [REDACTED] I don't know. Like, the

24 premise doesn't seem to be true because, again,

25 seems to be talking about a proposal to me. 04:20:28

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1 Q. Yeah, I'm talking the proposal. We're on  
2 the same page, Mrs. Borsay.

3 So I'm saying there --

4 A. Okay.

5 Q. According to this document, in the 04:20:35  
6 proposal, [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Do you see that?

10 A. I see that. 04:20:46

11 Q. Okay. And you don't see anywhere in the

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 A. Again, I just see a snippet of how a new 04:20:59  
16 tab page would look like, but I can look at that  
17 snippet to see if I see the statement there.

18 Q. Thank you. Just let us know when -- when  
19 you're done looking at it.

20 A. So in that snippet, I do not see -- I 04:21:23  
21 don't -- I do not see that term, "private," in  
22 there.

23 Q. Okay. And again, if you look at the

24 [REDACTED]

25 [REDACTED] 04:21:41

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24  
25

[REDACTED]

Did I read that correctly?

MS. CRAWFORD: Objection insofar as it  
mischaracterizes the document.

You can answer.

04:21:50

THE WITNESS: So I read those words as  
well, yeah.

BY MR. LEE:

Q. Okay. Let's look at what else is in the  
"Proposed" revamp.

04:21:57

Under [REDACTED]  
[REDACTED]  
[REDACTED]

Do you see that?

MS. CRAWFORD: Misquotes the document.

04:22:20

You can answer.

BY MR. LEE:

Q. Yeah, let me do it the right way. Under  
[REDACTED]  
[REDACTED]

right?

04:22:29

A. That's what's in the snippet, yes.

Q. Okay. And "in the snippet," just to be  
clear, we are talking about the "Proposed" revamp;  
correct?

A. Again, I'm neither part even of the team,

04:22:40

1 as you saw on the title slide, for anything. So  
2 I'm guessing, from looking at what you are looking  
3 at, but I am -- I have neither written this nor  
4 have I been part of the team.

5 Q. Okay. 04:22:56

6 A. So I'm --

7 Q. The lang- --

8 A. -- dealing with speculation area here.

9 Q. The language where it says [REDACTED]

10 [REDACTED] 04:23:04

11 [REDACTED]; right?

12 Do you see where it says "Proposed"?

13 MS. CRAWFORD: Objection to the  
14 characterization.

15 You can answer. 04:23:12

16 THE WITNESS: I see that it says  
17 "Proposed," and I see that that sentence is  
18 on snippet -- on snippet above the "Proposed"  
19 word.

20 BY MR. LEE: 04:23:24

21 Q. Okay. Now, under that statement that I  
22 just read to you, that "[REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Do you see that? 04:23:47

1 MS. CRAWFORD: Objection to the  
2 characterization.

3 THE WITNESS: So I see bullets there.  
4 I'm not sure -- can you just rephrase your  
5 question?

04:23:56

6 BY MR. LEE:

7 Q. Sure. Under "[REDACTED]  
8 [REDACTED]  
9 right?

10 A. Correct.

04:24:02

11 Q. And the three sub-bullets [REDACTED]  
12 [REDACTED]; correct?

13 MS. CRAWFORD: Objection to the  
14 characterization.

15 THE WITNESS: Yes, and again, I wouldn't  
16 know why they should.

04:24:10

17 BY MR. LEE:

18 Q. Do you know if Google revamped the new  
19 tab page consistent with this proposal?

20 MS. CRAWFORD: Objection to the  
21 foundation.

04:24:25

22 You can answer.

23 THE WITNESS: I guess I didn't fully  
24 understand. What did you say? Google did  
25 what?

04:24:31

1 BY MR. LEE:

2 Q. Yeah, did Google ever adopt this -- this  
3 "Proposed" revamp new tab page?

4 A. Can you specify, please, what you mean  
5 with Google here? 04:24:42

6 Q. Sure. Why don't we do it this way.  
7 If -- why don't we open up 3A again.

8 MR. LEE: Augusto, that's the Incognito  
9 new tab page you can open up on your screen.

10 BY MR. LEE: 04:25:02

11 Q. All right. So we just opened up the  
12 Incognito new tab page right now.

13 A. Mm-hmm.

14 Q. And none of the changes proposed are on  
15 the new tab -- on the current new tab page; 04:25:12  
16 correct?

17 MS. CRAWFORD: Objection to the form of  
18 the question and foundation.  
19 You can answer.

20 THE WITNESS: So you are saying none of 04:25:24  
21 the proposed language or what?

22 BY MR. LEE:

23 Q. Yeah, none of the proposed changes for  
24 the new tab page revamp actually occurred because  
25 we're looking at the current new tab page and none 04:25:36

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1 of those changes are reflected; right?

2 MS. CRAWFORD: I just want to be clear.

3 Insofar as you're trying to set up a

4 side-by-side for the witness, that hasn't yet

5 happened. So maybe Augusto can just let us 04:25:47

6 know once the other document is up on the

7 screen.

8 BY MR. LEE:

9 Q. Why don't we do it this way. I have an

10 easier way. Just put the new tab page up there, 04:25:57

11 Augusto, so it's nice and big.

12 THE VIDEOGRAPHER: And, Counsel, we are

13 at the 15-minute mark.

14 MR. LEE: Thank you.

15 THE VIDEOGRAPHER: You're welcome. 04:26:10

16 BY MR. LEE:

17 Q. In the new tab page listed as Exhibit 3A,

18 the spy guy is still there, right?

19 A. The icon is there, yeah.

20 Q. Okay. It still says, you've gone 04:26:20

21 Incognito, right? The words "Incognito" are still

22 on the new tab page; correct?

23 A. I'm not sure what you are referring to

24 with "still," but, yeah, we looked at it earlier,

25 and now again, and it's still there, yes. 04:26:33

1 Q. Okay. And on the new tab page, the words  
2 "Now you can browse privately" are still there;  
3 right?

4 A. Well, you didn't state the sentence, but  
5 those words are on there, yeah. 04:26:45

6 Q. On the new tab page, the current new tab  
7 page, Google isn't listed as -- as an entity that  
8 a user might still be visible to; right?

9 MS. CRAWFORD: Asked and answered many  
10 times now. 04:27:02

11 THE WITNESS: It is one of the websites.

12 BY MR. LEE:

13 Q. Okay. And other than Google.com, can you  
14 think of any other Google websites?

15 MS. CRAWFORD: Objection to the form of 04:27:18  
16 the question. Foundation.

17 THE WITNESS: I can think of  
18 mail.google.com, for example, as well.

19 BY MR. LEE:

20 Q. Okay. Anything else? 04:27:30

21 A. Tech.google.com.

22 Q. Anything else?

23 A. YouTube. Even though I don't know  
24 exactly what the URL is, but YouTube.

25 Q. Okay. Anything else? 04:27:41



1 A. Blogspot.

2 Q. Anything else?

3 A. Maps.google.com.

4 Q. Anything else?

5 A. Drive.google.com. 04:27:58

6 Q. What else?

7 A. Docs.google.com.

8 Q. What else?

9 A. Slides.google.com, I can think of.

10 I'm not sure if the URL is correct, but 04:28:11  
11 something around sheets.google.com.

12 Q. What else?

13 A. I cannot think of other products at the  
14 moment.

15 Q. So sitting here today, you think that 04:28:30

16 [REDACTED]; is that  
17 fair?

18 MS. CRAWFORD: Objection insofar as that  
19 misstates the witness's testimony. Lack of  
20 foundation. 04:28:40

21 THE WITNESS: So that [REDACTED]

22 [REDACTED]

23 BY MR. LEE:

24 Q. Yeah.

25 A. And this seems to be contextual to who -- 04:28:45

1 to the sites the user may visit. I cannot  
2 speculate about which sites a user may visit or  
3 may not visit.

4 Q. No, no, I'm saying you listed out a bunch  
5 of Google websites. Can you -- when you -- the 04:29:00  
6 Google websites that you can think of, those are  
7 all the ones you can think of [REDACTED]  
8 [REDACTED]; right?

9 MS. CRAWFORD: Misstates the witness's  
10 testimony. Also mischaracterizes the 04:29:12  
11 document.

12 You can answer.

13 THE WITNESS: No, I didn't say that. You  
14 asked me to think about different Google  
15 products, and I listed some. 04:29:20

16 BY MR. LEE:

17 Q. What other Google websites that you  
18 haven't listed [REDACTED]  
19 in your mind?

20 A. [REDACTED] 04:29:25

21 [REDACTED] [REDACTED]  
22 [REDACTED]

23 Q. Sure. But I'm talking about Google  
24 websites.

25 Which -- what other Google websites other 04:29:40

1 than ones you've listed are a website that you  
2 visit?

3 MS. CRAWFORD: Asked and answered --

4 BY MR. LEE:

5 Q. Any others? 04:29:48

6 MS. CRAWFORD: Asked and answered a  
7 couple times at this point, James.

8 THE WITNESS: I can repeat the two  
9 things. A, it's about websites you visit.  
10 So it's about the context. If user visits 04:29:56  
11 websites, it's about that. And it talks  
12 about websites in general.

13 BY MR. LEE:

14 Q. The word "Google" doesn't show up  
15 anywhere on the new tab page; correct? 04:30:10

16 MS. CRAWFORD: Asked and answered many  
17 times at this point.

18 THE WITNESS: Correct.

19 BY MR. LEE:

20 Q. The decision not to make any of the 04:30:19  
21 changes in the proposed revamp of the new tab  
22 page, whose idea was that?

23 MS. CRAWFORD: Objection. Lack of  
24 foundation, and insofar as it calls for  
25 speculation. 04:30:33

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1 THE WITNESS: Whose idea was what? Could  
2 you please specify your question?

3 BY MR. LEE:

4 Q. Whose idea was it not to accept any of  
5 the proposed changes to the new tab page revamp? 04:30:39

6 MS. CRAWFORD: Same objections, including  
7 lack of foundation and assuming facts.

8 You can answer.

9 THE WITNESS: I struggle with like whose  
10 idea it was to not accept. I'm not sure if 04:30:56  
11 something has been accepted or not accepted  
12 to begin with. And again --

13 BY MR. LEE:

14 Q. Who --

15 A. -- I wasn't -- I'm not even listed -- 04:31:04

16 MS. CRAWFORD: Wait a second, James.

17 THE WITNESS: I'm not even listed as one  
18 of the many team members around those  
19 explorations for a potential revamp of the  
20 new tab page. 04:31:15

21 BY MR. LEE:

22 Q. Okay. So let's try it this way.

23 The decision not to make any of the  
24 changes to the Incognito new tab page, was that  
25 your decision? 04:31:22

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1 MS. CRAWFORD: Same objections.

2 THE WITNESS: The idea to not make any  
3 changes?

4 BY MR. LEE:

5 Q. The decision not to make any changes to 04:31:35  
6 the Incognito new tab page that are reflected in  
7 the proposal that we just looked at, was that your  
8 decision?

9 MS. CRAWFORD: Same objections.

10 THE WITNESS: No. But I'm also not sure 04:31:48  
11 I fully understand the -- the question,  
12 but...

13 BY MR. LEE:

14 Q. The decision not to make any of these  
15 changes to the Incognito new tab page -- 04:32:03

16 A. I don't know that --

17 Q. -- was that -- was that a Sundar-level  
18 decision, Mrs. Borsay?

19 MS. CRAWFORD: Objection. Foundation.

20 Assumes facts. 04:32:12

21 THE WITNESS: I don't know what decision  
22 you are referring to. But I would be very  
23 surprised if Sundar would be involved in any,  
24 yeah, product-level discussion like this.

25 ///

1 BY MR. LEE:

2 Q. So you do know who Sundar is when I say  
3 "Sundar-level decision"?

4 MS. CRAWFORD: Argumentative.

5 MR. LEE: I'll reserve the rest of my 04:32:35  
6 time.

7 MS. CRAWFORD: Also misstates the  
8 witness's testimony.

9 MR. LEE: David, I'll reserve the rest of  
10 my time. 04:32:44

11 I have no further questions for now.

12 MS. CRAWFORD: Let's go off the record.  
13 Let's go off the record.

14 THE VIDEOGRAPHER: Okay. We are off the  
15 record at 4:32 p.m. 04:32:53

16 (Short break taken.)

17 THE VIDEOGRAPHER: We are back on the  
18 record at 4:45 p.m.

19 BY MR. LEE:

20 Q. All right, Mrs. Borsay, just a couple 04:45:53  
21 more questions.

22 You testified several times today that  
23 you don't know what information Google collects or  
24 doesn't collect from users when they are in  
25 Incognito Mode; right? 04:46:05

1 A. Correct.

2 Q. If the former product manager of Chrome  
3 Privacy doesn't know what information Google  
4 collects, then how could an average user possibly  
5 know what information Google collects in Incognito 04:46:20  
6 Mode?

7 MS. CRAWFORD: Object to the form of the  
8 question. Calls for speculation. Lack of  
9 foundation and misstates the witness's  
10 testimony. 04:46:29

11 You can answer.

12 THE WITNESS: So if a user wants to find  
13 out what data is collected by Google, there  
14 are various sources they can seek out. One  
15 that comes to mind would be the Google 04:46:52  
16 Privacy Policy, Help Center articles,  
17 disclosures in product.

18 BY MR. LEE:

19 Q. Are you done with your answer?

20 A. Yes. 04:47:12

21 Q. Okay. You said the Privacy Policy.  
22 Anything else?

23 A. I listed a few more examples that I as a  
24 user would seek out if I would be interested in  
25 learning more. 04:47:23

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1 Q. Okay.

2 A. Help Center articles. Product  
3 information.

4 Q. Okay. So have you ever read the Privacy  
5 Policy? 04:47:34

6 MS. CRAWFORD: Objection. Vague and  
7 overbroad.

8 THE WITNESS: If I personally have read  
9 the Privacy Policy for Google?

10 BY MR. LEE: 04:47:44

11 Q. Yeah.

12 A. No, I haven't.

13 Q. Then how do you know that's where the  
14 information is for a user to know what information  
15 Google collects in Incognito Mode? 04:47:49

16 MS. CRAWFORD: Objection. Again, vague  
17 and overbroad.

18 THE WITNESS: I talked about the  
19 resources I will check out as a user.

20 BY MR. LEE: 04:48:02

21 Q. Right. But you've just told us, you've  
22 testified that you -- you've never seen or you've  
23 never read the Google Privacy Policy. So why  
24 would you think that that information is contained  
25 in the Google Privacy Policy? 04:48:14

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1 MS. CRAWFORD: Objection. Argumentative.  
2 Misstates the witness's testimony.

3 THE WITNESS: I never said that I have  
4 never read the Google Privacy Policy. I just  
5 said that I didn't read the whole thing. 04:48:26  
6 Not -- I didn't say that I didn't see the  
7 Privacy Policy.

8 BY MR. LEE:

9 Q. I see. So based on your review of the  
10 Privacy Policy, what information does Google 04:48:38  
11 collect from users when they are in Incognito  
12 Mode?

13 MS. CRAWFORD: Objection. Foundation.  
14 Vague and overbroad. Also, incomplete  
15 hypothetical and assumes facts. 04:48:51  
16 You can answer.

17 THE WITNESS: I didn't recently review  
18 the Privacy Policy so that I would be able to  
19 quote Google's Privacy Policy as a thing.

20 BY MR. LEE: 04:49:06

21 Q. Can you -- can you name anything based on  
22 your review of the privacy policy that Google  
23 collects from users when they are in Incognito  
24 Mode? Strike that.

25 Can you remember anything that the 04:49:17

1 privacy policy specifies that Google collects from  
2 users when they are in Incognito Mode?

3 MS. CRAWFORD: Same set of objections.  
4 Lack of foundation.

5 THE WITNESS: There is no such thing of 04:49:30  
6 me reviewing the privacy policy again. I was  
7 talking about what resources I as a user  
8 would seek out if I'm interesting --  
9 interested in learning more about data  
10 collection. 04:49:45

11 BY MR. LEE:

12 Q. Is it your testimony that Google  
13 specifies what it collects from users while they  
14 are in Incognito Mode in its privacy policy?

15 MS. CRAWFORD: Objection insofar as it 04:49:55  
16 mischaracterizes the witness's testimony,  
17 lack of foundation and argumentative.

18 THE WITNESS: I work on Chrome as I also  
19 said several times. I do not know where what  
20 you are talking about is described. 04:50:12

21 BY MR. LEE:

22 Q. Okay. How about --

23 A. I talked about what I as a user would  
24 seek out to learn more.

25 Q. Right. But you're not testifying that 04:50:25

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1 you believe that information exists in the Google  
2 Privacy Policy; right?

3 MS. CRAWFORD: Lack of foundation. Asked  
4 and answered.

5 THE WITNESS: I can just say what I would 04:50:34  
6 seek out as a user myself. I would speculate  
7 about anything else.

8 BY MR. LEE:

9 Q. Okay. How about the Chrome Privacy  
10 Notice, since you're the product manager of Chrome 04:50:46  
11 Privacy or the former product manager of Chrome  
12 Privacy? Do you think the Chrome Privacy Notice  
13 tells users what information Google collects when  
14 they are in Incognito Mode?

15 MS. CRAWFORD: Same set of objections, 04:50:57  
16 including lack of foundation, assumes facts.

17 James, if you want to put it in front of  
18 her, since you're asking the witness to  
19 identify things that are in specific  
20 disclosures, obviously you can do so, as to 04:51:08  
21 both the privacy -- the Google Privacy Policy  
22 and the Chrome Privacy Notice.

23 BY MR. LEE:

24 Q. You can answer the question.

25 A. What's the question? 04:51:18

1 Q. Do you think that the Chrome Privacy  
2 Notice tells users what information Google  
3 collects from them when they are in Incognito  
4 Mode?

5 MR. MS. CRAWFORD: Same set of 04:51:31  
6 objections.

7 THE WITNESS: So I do not know. I didn't  
8 write those documents. So I would need to  
9 look at them in order to answer your  
10 question. 04:51:46

11 BY MR. LEE:

12 Q. Have you ever read the Chrome Privacy  
13 Notice?

14 A. I haven't read the entirety of the Chrome  
15 Privacy Notice. 04:51:52

16 Q. And sitting here today, based on what you  
17 did review in the Chrome Privacy Notice, can you  
18 recall what information, if any, Google tells  
19 users that it collects from them when they are in  
20 Incognito Mode? 04:52:14

21 MS. CRAWFORD: Lack of foundation.

22 THE WITNESS: I do not remember what I  
23 looked at in the privacy policy last time.

24 BY MR. LEE:

25 Q. Can you identify any document, any public 04:52:20

1 document or disclosures from Google, that  
2 specifies to users what information Google  
3 collects from them when they are in Incognito  
4 Mode?

5 MS. CRAWFORD: Same set of objections. 04:52:34

6 THE WITNESS: Again, I didn't author the  
7 different documents. But I can tell you, as  
8 a user, I would seek out the Google Privacy  
9 Policy in order to learn what data is sent to  
10 Google. 04:52:48

11 BY MR. LEE:

12 Q. I'm not asking about what you would seek  
13 out or what you authored, ma'am. So I want you to  
14 focus on my question.

15 MS. CRAWFORD: Argumentative. 04:52:54

16 BY MR. LEE:

17 Q. Can you, Sabine Borsay, identify any  
18 document that specifically tells users what  
19 information Google collects from them when they  
20 are in Incognito Mode? 04:53:04

21 MS. CRAWFORD: Lack of foundation, again.

22 THE WITNESS: And I don't work on Google  
23 data collection. I work on the browser. I  
24 can just state again: If I would like to  
25 learn more about data that's being sent to 04:53:21

1 Google or Google may collect, I would seek  
2 out Google Privacy Policy.

3 BY MR. LEE:

4 Q. But you don't know that it's in there.

5 You don't even know what's in the Google Privacy 04:53:31  
6 Policy. You said you were speculating; right?

7 MS. CRAWFORD: Objection. Argumentative.

8 Also, insofar as it misstates the witness's  
9 testimony.

10 BY MR. LEE: 04:53:45

11 Q. Let me rephrase.

12 If that information isn't contained in  
13 the Google Privacy Policy or the Chrome Notice,  
14 what would -- what is the user supposed to do to  
15 find out what Google collects from them when they 04:53:55  
16 are in Incognito Mode?

17 MS. CRAWFORD: Many objections there:  
18 Vague and overbroad, ambiguous, lack of  
19 foundation. Calls for speculation.

20 THE WITNESS: It's hard to answer because 04:54:08  
21 even the premise of your question doesn't  
22 sound right to me.

23 BY MR. LEE:

24 Q. Let me ask it this way. I am a -- I am a  
25 Chrome Incognito user, and I have no idea what 04:54:23

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1 Google collects from me when I'm in Incognito  
2 Mode. If you were to ask you, the product manager  
3 of Chrome privacy, what Google collects from me  
4 when I'm in Incognito Mode, what would you say?

5 MS. CRAWFORD: Objection to the form of 04:54:36  
6 the question. Foundation. Incomplete  
7 hypothetical. Speculation.

8 I also think we're at time, but, David,  
9 please let us know if that's wrong.

10 Okay. He just put it in the chat. 04:54:49

11 BY MR. LEE:

12 Q. Question is pending.

13 MS. CRAWFORD: You can answer. Yep, you  
14 can answer this last question.

15 THE WITNESS: So what I would tell you, 04:54:55  
16 that person is, on the one hand, to seek out  
17 Chrome's Incognito new tab page and look at  
18 what information is stated there. Plus,  
19 since it seems that that hypothetical user  
20 was interested in potential data collection 04:55:08  
21 from Google, I would point them to look at  
22 the Google Privacy Policy.

23 MS. CRAWFORD: All right. We are at  
24 time.

25 MR. LEE: Thank you very much, 04:55:25

1 Mrs. Borsay.

2 Some quick -- quick housekeeping,  
3 Jomaire. I would like to mark some exhibits  
4 for the record, and the documents fall into  
5 three groups. I believe they have been 04:55:35  
6 uploaded already.

7 The first group is Exhibit 12 and 13,  
8 which are internal Google e-mails. And I  
9 would like -- before we close the deposition,  
10 I would like Mrs. Borsay to confirm that she 04:55:47  
11 either drafted or received them in connection  
12 with her work at Google.

13 The second group is --

14 MS. CRAWFORD: Well, hold on, let's --  
15 let's stop there -- 04:55:55

16 MR. LEE: Hold on, hold on, let me  
17 just -- let me just make my record.

18 MS. CRAWFORD: Okay.

19 MR. LEE: The second group is Exhibits 14  
20 to 16, which are copies or drafts of Google 04:56:02  
21 presentations. I would like Mrs. Borsay to  
22 confirm that they were internal Google  
23 documents that came from her custodial file  
24 and/or received in connection with her work  
25 at Google. 04:56:13

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1           The third group is just one exhibit, it's  
2           Exhibit 17, which are Google's platform and  
3           ecosystem team Munich's meeting agendas. I  
4           would like Mrs. Borsay to confirm that the  
5           documents came from her custodial files                   04:56:26  
6           and/or were received in connection with her  
7           work at Google.

8           MS. CRAWFORD: Are you done making your  
9           record, James?

10          MR. LEE: Yeah.   04:56:35

11          MS. CRAWFORD: Okay. Obviously this is  
12          the first time I'm hearing of this purported  
13          housekeeping matter wherein you're asking us  
14          to confirm that certain documents that I have  
15          not yet seen are part of the witness's                   04:56:48  
16          custodial files.

17          You spent several moments during today's  
18          deposition authenticating exhibits. I have  
19          no reason to believe that however many  
20          exhibits you are talking about right now                   04:57:00  
21          would require an amount of time in order for  
22          us to walk through each of those items.

23          At no point prior to today have you  
24          mentioned to me the possibility of doing this  
25          in connection with a housekeeping request;               04:57:10

1 otherwise, we would have discussed this  
2 offline, and I would have asked that you do  
3 so during the course of today's proceeding.

4 So I'm not entirely sure where the  
5 request is coming from. But I can assure you 04:57:22  
6 that in the stipulation that was filed  
7 yesterday, we reached an agreement, as  
8 negotiated between the parties, to handle  
9 certain of these matters.

10 And this is a new request that I'm 04:57:31  
11 hearing for the first time right now, and I  
12 don't think, based on the court-ordered  
13 limitation for this deposition, that it would  
14 be appropriate or proper for us to keep the  
15 deposition open and walk through the various 04:57:42  
16 exercises that you just proposed, I think,  
17 ranging from Steps 1, 2, 3, for a certain  
18 number of additional exhibits that we haven't  
19 yet seen.

20 MR. LEE: Okay. So -- 04:57:52

21 MS. CRAWFORD: That's Google's position.

22 MR. LEE: Let me -- let me just respond  
23 to make my record.

24 It surprises me that this is the first  
25 time you're hearing about it because I've 04:57:58

1           been corresponding with your colleague at  
2           Quinn Emanuel, Mr. Spilly, about this for a  
3           few days now.

4           These are the remnants of the documents  
5           that we proposed the parties stipulate to.           04:58:09

6           These are the ones that Mr. Spilly would not  
7           agree to stipulate to, and he said that  
8           Ms. Borsay could lay the foundation within  
9           five minutes and that I should do that and  
10          instead of meet-and-conferring to talk about       04:58:22  
11          these documents. That is -- that is what he  
12          proposed.

13          So I'm --

14          MS. CRAWFORD: Yeah, so --

15          MR. LEE: -- taking him up on his           04:58:29  
16          offer -- excuse me. I'm taking him up on his  
17          offer. And according to him, this should  
18          take Mrs. Borsay five minutes. And she can  
19          do that off the record, and we can just get  
20          back on the record, and she can say yes or       04:58:39  
21          no.

22          So that's my position. If you guys want  
23          to say no, then, okay. I'm not going to  
24          close the deposition until we get resolution  
25          on that, and reserve all rights.           04:58:50

1 MS. CRAWFORD: Are you done?

2 MR. LEE: Yeah.

3 MS. CRAWFORD: Okay. So let's just be  
4 entirely clear: My confusion stems from your  
5 desire to do this after her deposition, after 04:58:58  
6 you've used your allocated time, in the  
7 context of a housekeeping matter.

8 Carl's e-mail to you suggested that you  
9 do the very same steps that you just proposed  
10 during the course of the deposition. 04:59:13

11 So you had three hours within which to do  
12 the exercise that you just described for us;  
13 and there's no reason why that could not have  
14 been accomplished during, perhaps, five  
15 minutes during the course of today's 04:59:25  
16 proceeding.

17 I will also state, however, based on the  
18 amount of time it took to authenticate other  
19 documents today, I don't have a reasonable  
20 estimate as to how long that process would 04:59:35  
21 take.

22 But in any event, we did discuss it; and  
23 the proposed approach, which you did not  
24 disagree with, was to do this during the  
25 course of the deposition. 04:59:43

1 Now, as a purported housekeeping matter,  
2 you're asking us to do this beyond the six  
3 hours that Judge van Keulen has ordered for  
4 this deposition, and that is something that  
5 we cannot agree to at this time. 04:59:55

6 MR. LEE: Okay. So from our perspective,  
7 the deposition is not closed, and we will  
8 revisit it, and hopefully we will reach a  
9 resolution. Otherwise, we'll take it up with  
10 the Court. 05:00:06

11 MS. CRAWFORD: We understand your  
12 position. Obviously, we reserve all rights.

13 MR. LEE: Yep. Same here.

14 All right. Thanks, everybody.

15 Mrs. Borsay, thank you for your time. I hope 05:00:14  
16 you get to enjoy Zurich. And everybody else  
17 over there, please see the Alps if you can.

18 MS. CRAWFORD: Thanks, James. We  
19 appreciate it.

20 THE VIDEOGRAPHER: We are off the record. 05:00:25  
21 This will conclude the deposition of Sabine  
22 Borsay. The total number of media units used  
23 in today's deposition was five and will be  
24 retained by Veritext Legal Solutions.

25 We are off the record at 5:00 p.m. 05:00:40

1 Central European Summer Time. Thank you.

2 (TIME NOTED: 5:00 p.m.)

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3  
4 I, RENEE HARRIS, do hereby certify that I  
5 am a licensed Certified Shorthand Reporter;

6 That prior to being examined, the witness named  
7 in the foregoing deposition was by me duly sworn  
8 to testify to tell the truth, the whole truth, and  
9 nothing but the truth;

10 That the said deposition was by me recorded  
11 stenographically;

12 And the foregoing pages constitute a full,  
13 true, complete and correct record of the testimony  
14 given by the said witness;

15 That I am a disinterested person, not  
16 being in any way interested in the outcome of said  
17 action, or connected with, nor related to any of  
18 the parties in said action, or to their respective  
19 counsel, in any manner whatsoever.  
20

21 Date: July 7, 2022

22  
23 

24 Renee Harris, CSR, CCR, RPR

CA CSR No. 14168,

25 NJ CRR No. 30XI00241200; RPR



1 ANGELICA M. ORNELAS, ESQ.

2 aornelas@bfalaw.com

3 July 7, 2022

4 RE: CALHOUN VS. GOOGLE LLC

5 JUNE 30, 2022, SABINE BORSAY, VOLUME II, JOB NO. 5268903

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 \_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext  
10 to schedule a time to review the original transcript at  
11 a Veritext office.

12 \_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF  
13 Transcript - The witness should review the transcript and  
14 make any necessary corrections on the errata pages included  
15 below, notating the page and line number of the corrections.  
16 The witness should then sign and date the errata and penalty  
17 of perjury pages and return the completed pages to all  
18 appearing counsel within the period of time determined at  
19 the deposition or provided by the Code of Civil Procedure.

20 \_\_\_ Waiving the CA Code of Civil Procedure per Stipulation of  
21 Counsel - Original transcript to be released for signature  
22 as determined at the deposition.

23 \_\_\_ Signature Waived - Reading & Signature was waived at the  
24 time of the deposition.

25

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1     \_\_\_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF  
2     Transcript - The witness should review the transcript and  
3     make any necessary corrections on the errata pages included  
4     below, notating the page and line number of the corrections.  
5     The witness should then sign and date the errata and penalty  
6     of perjury pages and return the completed pages to all  
7     appearing counsel within the period of time determined at  
8     the deposition or provided by the Federal Rules.  
9     \_X\_Federal R&S Not Requested - Reading & Signature was not  
10    requested before the completion of the deposition.

1 RE: CALHOUN VS. GOOGLE LLC  
2 SABINE BORSAY, VOLUME II, JOB NO. 5268903  
3 E R R A T A S H E E T  
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5 \_\_\_\_\_  
6 REASON\_\_\_\_\_  
7 PAGE\_\_\_\_\_ LINE\_\_\_\_\_ CHANGE\_\_\_\_\_  
8 \_\_\_\_\_  
9 REASON\_\_\_\_\_  
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12 REASON\_\_\_\_\_  
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19 PAGE\_\_\_\_\_ LINE\_\_\_\_\_ CHANGE\_\_\_\_\_  
20 \_\_\_\_\_  
21 REASON\_\_\_\_\_  
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23 \_\_\_\_\_  
24 WITNESS Date  
25

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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